



**DEBATES**

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

24 November 1993

**Wednesday, 24 November 1993**

Paper .....	4041
Stamp Duties and Taxes (Amendment) Bill (No 4) 1993 .....	4041
Visiting medical officers dispute .....	4042
Questions without notice:	
Visiting medical officers dispute .....	4072
Hospital waiting lists .....	4073
Emergency hospital services .....	4075
Hospital activity levels .....	4077
Electoral legislation .....	4079
Imported chocolates .....	4079
Land tax .....	4081
Auditor-General - report No 9 of 1993 .....	4083
Privilege (Statement by Speaker) .....	4083
Public Accounts - standing committee .....	4084
Public Accounts - standing committee .....	4086
Quarterly financial statement .....	4089
Papers .....	4093
Business delegation to Japan (Ministerial statement) .....	4094
Labour Ministers conference (Ministerial statement) .....	4096
Public health (Matter of public importance) .....	4100
Scrutiny of Bills and Subordinate Legislation - standing committee .....	4118
Postponement of orders of the day .....	4118
Tobacco Products (Health Warnings) (Amendment) Bill 1993 .....	4118
Adjournment: National Road Transport Commission report .....	4124

**Wednesday, 24 November 1993**

---

**MADAM SPEAKER** (Ms McRae) took the chair at 10.30 am and read the prayer.

**PAPER**

**MS ELLIS:** I ask for leave to present a petition which does not conform with standing orders as it does not address the Assembly or contain a request.

Leave granted.

**MS ELLIS:** I present an out-of-order petition from 1,762 residents demanding free education for all, no sacking of teachers, more funding for education, not less, and that classes such as languages, music and art be a right, not a privilege.

**STAMP DUTIES AND TAXES (AMENDMENT) BILL (NO. 4) 1993**

**MR KAINE** (10.32): Madam Speaker, I present the Stamp Duties and Taxes (Amendment) Bill (No. 4) 1993.

Title read by Clerk.

**MR KAINE:** I move:

That this Bill be agreed to in principle.

I think members will be well aware of the reasons why I have brought forward this private members Bill today. It is only about a month ago that we debated the Government's amendment to this Act, which introduced certain changes to which some exception was taken by the business community. Two of the matters that are the subject of my amendment today were raised in a letter from the Law Society to the Chief Minister that was received during the debate on that Bill. Members will recall that we adjourned the debate for 24 hours so that the Chief Minister could acquaint herself with the contents of that letter. However, she refused to accept the argument put forward by the Law Society, and the Bill went through in the form presented by the Government.

The Chief Minister argued at the time, in particular, on the question of the length of tenure of a lease and when it was reasonable for it to be regarded as a conveyance. She said, and I quote from the *Hansard* of 21 October:

... the Government did choose the 15-year period. It was chosen to provide some balance between the planning needs of business ... and the need to provide some equity in the tax arrangements.

24 November 1993

She argued strongly for the 15-year period. However, I notice that since then the Chief Minister has acknowledged that she was wrong and has publicly stated that she will seek to amend the Bill to extend that period from the 15 years she had arbitrarily set. So even in the month since the Bill has been in place the Chief Minister has acknowledged that she was in error, and I think it is to her credit that she has done that.

I had drafted my amendments and submitted them at an earlier stage and was ready to proceed with my Bill immediately. I have since redrafted it, and I have tabled it today. I commend it to the Government for rather more serious consideration than was given to the amendments I proposed a month ago. I am sure that if the Government examines my amendments in the light of what the Law Society said in their letter to the Chief Minister of 19 October 1993 and what the business community is now saying, and I know that the Chief Minister has heard what the business community has said and has had some regard for it, the Government will agree that the amendments I am proposing are sensible and reasonable and equitable. I ask them to consider my amendments in that light. I seek leave to present an explanatory memorandum to the Bill.

Leave granted.

**MR KAINE:** I present the explanatory memorandum, Madam Speaker.

Debate (on motion by **Ms Follett**) adjourned.

#### **VISITING MEDICAL OFFICERS DISPUTE**

**MR LAMONT** (10.36): I move:

That the Legislative Assembly urge the Visiting Medical Officers (VMOs) to end their strike in public hospitals and accept arbitration as the means for resolving the current dispute.

Madam Speaker, it has been suggested that this was an inappropriate motion for a member of this Assembly to move as part of private members business. This motion could have been more fairly treated, it was suggested, had the sentiment of the motion been moved by a member of the Government - - -

**Mr Berry:** Who suggested that?

**MR LAMONT:** Mr Humphries suggested that.

**Mr Berry:** The doctors' lackey?

**MR LAMONT:** Yes. It was suggested that it would be more appropriate that this be moved other than as a matter of private members business. I move this motion and seek the support of the Assembly on the basis of my concern about the protracted nature of the strike by the visiting medical officers, there being seemingly no end in sight.

In order to set the scene for my concern and my belief that arbitration is the only method that will see a resolution to this dispute, I need to give some background to my own experience in relation to industrial relations in general. I was extremely fortunate to be employed by the Transport Workers Union of Australia in 1981. That organisation, as you may be aware, Madam Speaker, is an organisation of labour that covers and has amongst its members people who are employed as employees, people who are employed as casual employees, people who are employed as part-time employees, and people who are employed as owner-operators - sometimes referred to as independent contractors.

There were a range of bases for dealing with the aspirations of that disparate group of people within the transport industry. In relation to those people whom some refer to as independent contractors, when they acted in a singular manner, that is, when there was a single issue affecting one single owner-driver or owner-operator or independent contractor, it was generally felt that the most appropriate way to resolve the differences in the dispute was in direct negotiation, one on one, between the single independent contractor and the employer.

However, a different situation arose where you found that a group of independent contractors operating in the same industry or similar industries had a dispute about the basis upon which their contractual obligations were supposed to be met or altered according to the particular circumstances of that workplace. When that situation occurred, the most appropriate form of resolution of the dispute was not to walk out the door, not to spit the dummy, not to walk away from their responsibilities, but to allow them to be jointly represented on the issues associated with their independent contracts and, in general, to proceed to arbitration. That was facilitated by the Conciliation and Arbitration Commission on most occasions and, may I say, quite successfully as far as the attitudes of the employers and the independent contractors were concerned.

In New South Wales, we have a situation where independent contractors are able to be represented before the State Industrial Commission. That commission has recently been involved in arbitration on exactly this issue.

**Mrs Carnell:** Why, Mr Lamont?

**MR LAMONT:** For a very simple reason. It is seen as being appropriate, where a dispute exists between independent contractors as a collective group and their employer, to have it resolved by an independent third party. My understanding about the process for conciliation in New South Wales is that it is not dissimilar to the contractual obligation that in 1987 the VMOs signed in the ACT, which said that when there is a dispute they will agree to go to conciliation.

Where do we now find ourselves? We find ourselves in a position where the people opposite in this chamber have not been interested at all in seeking a resolution.

**Mrs Carnell:** I said that I would do it for them.

24 November 1993

**MR LAMONT:** Asking Mrs Carnell to arbitrate or even conciliate in this matter is like putting Dracula in charge of the blood bank - something which I do not believe would come up with an appropriate resolution. This is a strike by visiting medical officers, for there is no question that they are acting in collusion to withdraw their labour, to withdraw their services. By acting in collusion and entering into the strike, they have to understand - - -

**Mr De Domenico:** They have been locked out.

**MR LAMONT:** I find it amazing that the white knight of organised labour, Mr De Domenico, is up here defending the rights of organised labour, as he calls it, for the visiting medical officers. It shows the sort of hypocrisy with which the Opposition has treated this matter. There is an old axiom in industrial relations that every dispute has a beginning, a middle and an end.

**Mr Cornwell:** That is profound.

**MR LAMONT:** It may be profound. What you have to realise, Mr Cornwell, is that there is an end to every dispute. The real test of how well you can handle an industrial dispute, either as an employer or as a trade union, is the process by which you achieve the end of the dispute. I, as a paid trade union official, regarded it as an absolute failure whenever, because of a breakdown in negotiations, I had to recommend or accept the withdrawal of labour. That is my view. I believe that it is a breakdown in the system. Nevertheless, when that does occur there is always an end to the dispute.

The visiting medical officers have it in their collective hands to end this dispute. They have it in their collective hands to go to the Industrial Relations Commission on Thursday. They have agreed to go. They are going to adopt the De Domenico tactic of industrial relations. They will go along and say, "Yes, Mr Commissioner, we are here, but we are not going to listen. We are not going to take any notice. You can do your darnedest".

The simple position for the people of the ACT is that the visiting medical officers now have the opportunity to resolve this matter through their organisation, through their trade union, through their professional body - call it what you like; but it is, to all intents and purposes, acting in a manner consistent with the way organised labour has been able to operate. They are acting in collusion. They are acting as a trade union would act. They have the opportunity to go along to the Industrial Relations Commission on Thursday of this week and have this matter resolved by an independent third party, a body which, indisputably, has the collective wisdom to handle the complexities forming the basis of this dispute. The Industrial Relations Commission has that expertise, beyond a shadow of a doubt. They have acted to resolve disputes elsewhere in the health system.

**Mr Humphries:** Between employees and employers.

**MR LAMONT:** They have acted elsewhere in Australia to resolve disputes between contractors and employers. Yes, they have, Mr Humphries. It might surprise you. If you look at your industrial law you can see where that happens. What you and your bunch do not want to see is this matter resolved on the basis outlined by the Government. You do not want to see it resolved on that

basis because to do so will reduce health costs in the ACT. That is beyond dispute. It will reduce health costs in the ACT, and that is not something the Opposition wishes to do. All you are concerned about is continuing the dispute in an attempt to make cheap political points.

The Opposition, for once in its life, should simply shut up, say nothing, and allow the appropriate mechanism for resolving this dispute to be put into place, instead of geeing up the doctors and saying "No; unlike the rest of the community, we in the Opposition believe that you should continue the dispute". That is exactly what you are saying. You have just sat there and said, "Do not go to the Industrial Relations Commission. They should not be going to the commission".

**Mrs Carnell:** No; they have a right not to.

**MR LAMONT:** The Leader of the Opposition is saying, "Do not go to the commission". All the rest of your members are saying, "Do not go to the commission". What you are proposing is a continuation of this dispute for your own political ends, and you all should be exposed for that. You will find, Mrs Carnell, that the people in this Territory believe that it is about time changes occurred to the basis upon which VMOs are paid in the Territory. As one example, it is absolutely outrageous that we have somebody contracted as a VMO charging slot fees. Do you know what slot fees are, Mrs Carnell? That is where somebody who is going to be treated as a public patient - - -

**Mr Kaine:** That is something to do with poker machines.

**MR LAMONT:** You are dead right; that is where the analogy comes from. It is like playing the poker machines. Whether you can get into hospital depends upon how well you know the person who fixes it half the time. You have visiting medical officers, contracted to provide services in our hospitals, who are saying to public patients, "If you want to guarantee me, a visiting medical officer, to be your doctor when you go in as a public patient, cough up 300 bucks, cough up 400 bucks". That is what is happening, and it is becoming endemic in some of the professions. It is about time that changed.

I would suggest that some of the people who are bleating the loudest are some of the people who are using that very tactic. That is absolutely outrageous. I defy you to support it. I defy the Opposition to support that sort of action.

**Mr Cornwell:** And I would defy you to prove it.

**MR LAMONT:** You do not want to do that. All you want to do is sit down the back like Kermit and say, "Prove your case, prove your case". That is all you want to say. You do not want this dispute to be resolved. You do not wish to see a reasonable outcome in our public health system and reasonable charges being paid to the visiting medical officers.

Without question, the basis upon which their contract is set should be a reasonable amount. Take as another example a procedure that once upon a time took an hour and for which they were paid \$800. That procedure now takes 15 minutes, but they are still to this day demanding to be paid \$800 for it. It is the public purse that has had to provide the technology to allow that to be done, but we have some people saying, "We do not care if the expenditure from the public purse now allows us to do that procedure in 15 minutes, or a couple in an hour; we are going to double up". This is simply not good enough.

24 November 1993

The doctors must accept that if they act like the ship painters and doctors they should be treated like the ship painters and doctors. If they want this matter to be resolved, the only way - - -

**Mr Kaine:** We do not have ship painters and doctors.

**MR LAMONT:** Yes, we do, Mr Kaine. Not only do we have the people controlling the slot machines, we also have in this town the ship painters and doctors, and that is something people should be acutely aware of. If they are going to act like that, they should be prepared to accept the outcome of the umpire. The umpire in this case, I believe, is beyond dispute in terms of competence to handle the matter, and the VMOs in the ACT should accept the umpire's decision. That is exactly what you people implore us to do, exactly what your kind have implored us to do for all of your lives, and it is about time you stood up and took account of it.

**MRS CARNELL** (Leader of the Opposition) (10.52): I think it is important, first of all, to refute a number of the comments Mr Lamont made. First, the Liberal Party is not about maintaining the current level and the current contractual basis of the VMOs.

**Mr Berry:** You said here that they should get the same.

**MRS CARNELL:** I have said publicly that it would be terribly unfortunate for ACT VMOs to be paid substantially more or substantially less than their New South Wales counterparts.

**Mr Berry:** No; you said, "You should give them the same". I have the press release.

**MRS CARNELL:** As New South Wales. The importance of making sure that they are paid at the same sorts of levels as in New South Wales is that we want a quality health system.

**Mr Berry:** Yes, but they do not want that. They will not accept that. You silly woman!

**MRS CARNELL:** We want good doctors in our health system, and unless we pay them under those sorts of circumstances we will not get them. The Liberal Party is not going down the track of suggesting that the VMOs should be paid and have conditions substantially in excess of those in New South Wales. That statement has been made time and time again.

What we are saying, though, is that in an attempt to resolve this dispute, a dispute that is causing huge problems to the community, it would have been nice if the Minister had followed the contractual arrangements he now seems to be using. The contractual arrangements say in clause 7, part (iii):

In the absence of agreement between the parties by a date three months prior to the date of expiration of existing contracts -

that is, 20 November -

the claim shall be referred to the independent conciliation and/or arbitration.

That suggests that three months ago, if Mr Berry had been following the bit of paper he has claimed is the basis for him to go to the Industrial Relations Commission, he would have had to do so.

**Mr Berry:** No, after three months.

**MRS CARNELL:** Three months prior to the expiration of the existing contract. That is three months before 20 November. I will read clause 6 of this piece of paper the Minister has suggested means that the doctors signed something that says that they would go to the Industrial Relations Commission. Anybody who would like a copy of this is more than welcome to it; it is a public document. In relation to the arbitrator, who has been appointed by both parties - that does not sound to me like the Industrial Relations Commission - clause 6, Operating Arrangements, states:

The arbitrator shall determine the processes to be followed in arbitration, shall not be bound to act in a formal manner and shall not be bound by any rules of evidence but may inform himself/herself on any matter and in such manner as he/she thinks just.

The arbitrator shall act according to equity, good conscience and the substantial merits of the case, without regard to technicalities and legal forms.

I know that Mr Lamont has suggested that he is the great guru of the Industrial Relations Commission, but that does not sound to me like the Industrial Relations Commission. What the medical officers are saying and what the Liberal Party particularly is saying - - -

**Mr Berry:** No, the Liberal Party is saying, "Give them more, give them more".

**MRS CARNELL:** The Liberal Party is not saying that.

**Mr De Domenico:** No, it is saying, "You are the Minister; you go and fix it".

**MRS CARNELL:** We are saying that it is incumbent upon the Minister to sort this thing out.

**Mr Connolly:** The doctors have gone on strike.

**MRS CARNELL:** The doctors have not renewed their contracts.

**Mr Connolly:** Because they have withdrawn their labour.

**Mr Humphries:** Fancy someone going on strike!

**MRS CARNELL:** Madam Speaker, I am trying to get on with my speech.

**MADAM SPEAKER:** You are getting a lot of assistance from both sides, Mrs Carnell. I think Mrs Carnell would like a bit of order, members.

**Mr Berry:** She needs help badly.

**MADAM SPEAKER:** Order!

24 November 1993

**MRS CARNELL:** What we are suggesting - - -

**Mr Humphries:** She does not need medical help.

**Mr Berry:** If she does, she will not get it in this town.

**MADAM SPEAKER:** Mr Berry, order!

**MRS CARNELL:** What we are suggesting is that today the appropriate action would be to appoint an independent arbitrator. How about Justice Else-Mitchell, somebody who is well regarded in this community and who has worked for both sides of this parliament? Let us look for somebody in this community who has some experience, who has the respect of both sides, to sit down with the Minister and the AMA and come up with a result. That is an approach that will work. As we know, the IRC is a wage fixing tribunal. It has little jurisdiction over, and certainly little expertise in, setting the price of services for industrial contractors. It has little expertise in this area.

Mr Lamont suggested that the Industrial Commission of New South Wales was used in this situation - and it was, because it has to be, under the New South Wales hospitals Act. That was the reason it was used, and it was a wonderful success! What they did actually produced the dispute in New South Wales. The New South Wales Government then had to pursue a sensible dispute settling mechanism, which I understand is progressing well and will produce a result in the near future. That is what happened in New South Wales, Mr Lamont, not something else that you were - -

**Mr Lamont:** The VMOs here have rejected it.

**MRS CARNELL:** I thought what we were trying to do today was not to have some sort of amazing "Let's have a go at each other" debate, but look for something that will work in this dispute. What we have to do, in the first instance, is what happened in New South Wales, and that is to extend the contracts, as would normally be the case in any other dispute mechanism. In any dispute mechanism, what normally happens is that the current wage or the current contract, if contracts are used this way, as Mr Lamont assures me they are, would be extended while the process of conciliation or arbitration went on. That is what has happened in New South Wales.

So we have, first of all, to extend the contracts and get the VMOs back to work this afternoon. Extend the contracts until Christmas. Let us not give it a long period; let us just go until Christmas, and then let us see Mr Berry do something positive and find an independent arbitrator who will be accepted by both sides. Quite honestly, the community would be on your side, Mr Berry. Let us look at an independent arbitrator and let us sit down and solve this dispute by Christmas. Mr Berry, if you think calling doctors greedy, money-grubbing people who do not care about patients, unprofessional - - -

**Mr Connolly:** That is what you call blue-collar unionists when they are in dispute.

**MRS CARNELL:** I have never called anybody any of those things, Mr Connolly. If you think that is the way to fix up a dispute, Mr Berry, you just do not understand. Calling people names has never sorted out a dispute.

One of the things we have to look at is what the two outstanding problems are in this dispute. The major outstanding issues, of course, are the indexation of fees and how contracts should be upgraded. As we know, the fees of a VMO are not just wage based. They have motor vehicles, they have practice costs, they have superannuation, they have oncosts of staff. All of those things are very normal in contractual terms. Those are the sorts of things that exist in every single contract I know of.

We have to look at a way of indexing, of coming up with a component by which their fee can be increased during the term of the contract that will suit both parties. The CPI is obviously not acceptable for wage and salary components because that is not what is happening in Australia as a whole. We have to look at - - -

**Mr Berry:** Yes, it is lower.

**MRS CARNELL:** Yes, it is lower. Therefore, we have to look at an enterprise based agreement for wage and salary costs. The VMOs have been totally accepting of that, but they are not - - -

**Mr Berry:** They have been accepting of nothing.

**MRS CARNELL:** That is in writing, Mr Berry. They have totally accepted that their wage and salary components would not be upgraded by the CPI but would be based upon an enterprise agreement, like everybody else's. That would be an appropriate approach. Motor vehicle costs, practice costs, the oncosts of staff and so on, need to be treated in a slightly different way, as they are in just about every other contract. What we need to do is come up with a formula that will give the VMOs a capacity to update.

Mr Berry and Mr Lamont have accepted that in their across-Government agreement there would be regular increases for staff. It is just a normal situation, when you have people who are either staff or contracted to you, that there will be some mechanism for upgrading. Alternatively, you could go for a fairly big increase up front and no increase for the period of the contract. Those are the two ways contracts are negotiated. In this particular circumstance, the VMOs are willing to negotiate. They are willing to come up with a formula that could suit both sides, but we will never know unless we try.

There are other issues. In the new contracts the Minister decided he was going to solve the problem by sending out, he included things that have not been discussed, or certainly things for which solutions have not been found. In 7.2, Facility Fees, it is stated:

The fees for use by the practitioner of facilities owned by ACT Health may be deducted from the remuneration payable in accordance with clause 4 of this agreement. Such fees shall be in accordance with a schedule determined from time to time by the Secretary of the Department of Health.

So the VMOs are saying, and rightly so, "That is fair enough, but let us know what formula the department is going to use to upgrade". Therefore, it is okay for you not to have any formula for that upgrade. You make them sign an agreement that is open ended and then turn up at one meeting, Mr Berry. You just gave it to

24 November 1993

your public servants to do. What has it achieved? You have achieved a situation where people are being flown out of this city every day. The Minister has not followed his own contractual obligations. The Minister has not been present at meetings. In any other circumstance, you would have a situation where the midnight oil was being burnt by the Minister and the other people involved to try to come up with a solution.

Madam Speaker, I will say it again: The Liberal Party is not about maintaining VMOs' fees at an unrealistically high rate. We believe that quality medicine in the ACT means that our VMOs' fees should mirror those of New South Wales.

**Mr Connolly:** So they should be reduced?

**MRS CARNELL:** Yes, I have always said that. I have said it in print.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (11.07): Mrs Carnell tries to rewrite history again and to create her version of it. I read a paragraph of a letter I wrote to the AMA on 20 November:

If your members are prepared to sign the contracts I will ensure the discussions continue on those matters outside the core elements on which the rate of \$132 per hour depends. I guarantee that agreed outcomes from those discussions will apply where applicable from the date on which the contracts are signed. Similar dispute settling mechanisms to those set out in the contracts could be developed to deal with disputed matters.

So there is plenty of movement from the Government. From the Liberals, we saw this on 27 March:

The Liberal spokeswoman on health, Kate Carnell, gave qualified support to Mr Berry, saying the NSW decision should have a bearing -

she is walking out now; she does not like the medicine -

on the local contract deliberations.

"You can't have your cake and eat it too", said Mrs Carnell.

What we did then was to make sure that the interest of the AMA was tested on the New South Wales decision. They do not want it. Meetings commenced in about June this year, and there have been lots of them. There was a working party process developed in order that we could look at all of the rates around Australia, in conjunction with the AMA. That working party developed a range of figures, but it soon became apparent that the AMA was not going to move from its previous position, that is, the highest rates in Australia.

In order to keep the hospital system open, I developed a proposal which was based on national rates, that is, \$100 an hour for sessional payments, adoption of the MBS schedule, and a guarantee that if the negotiation process delivered something different it would be given to the doctors and back paid to the date of the contract. I guaranteed it. I also said that an arbitration process was an appropriate course. Throughout those negotiations doctors have been offered

arbitration as an outcome for settling this dispute. They have consistently said, "No, we cannot win". They are not worried about being fair; they are worried about winning. That is the essence of the debate. So we have doctors who refuse to go to arbitration.

Mrs Carnell read from a document which describes the arbitration process. What she did not say - she always forgets to speak all of the truth - was that this relies on the parties agreeing to appoint an arbitrator. There was no chance of that ever happening because the AMA would never agree to it.

**Mr De Domenico:** How many meetings have you attended with the AMA?

**MR BERRY:** One more than Mr Humphries. When Mr Humphries was Minister and the negotiations with the VMOs were on, he did not have any meetings; he just gave it the tick. There were no negotiations, and he locked us into this disgraceful position where the AMA is able to bleed the system dry. That is what Mr Humphries did. Ask him what he did with the ophthalmologists when they went on strike. We saw an ophthalmologist bleating in the newspaper this morning. What did Gary Humphries do about the ophthalmologists?

**Mr Humphries:** I settled the dispute.

**MR BERRY:** That is right; you gave in to them. You gave them the extra \$200 per procedure. They went on strike. There were AIDS people around this town who needed implants, and the ophthalmologists would not do it if they were public patients. They kept it up and they kept it up. Who folded? Gary Humphries. He gave them the \$200; he bent. You cannot give in forever if you have the gun at your head.

The ACT Government is presently in dispute with the strongest and most belligerent of all unions. The difference between this union and those we are most accustomed to dealing with is that it represents some of the most privileged in our society, is not subject to the normal industrial process, and is accustomed to setting its own pay rates and conditions. This, of course, is the Australian Medical Association.

All of you would have seen in the Estimates Committee process the rates of pay which were set out in Health's annual report. It showed some of the very high rates we pay from our hospital system, up around a quarter of a million dollars. We know that, on average, obstetricians can earn up to \$400,000, so we are looking at salary rates of at least \$650,000 in some cases, and more when you take into account private practice and other things. These people want to continue that position forever. They believe that they are entitled to it.

I see in the background one of our businessmen, who obviously is aware of the position when you make contracts. You make the contract and it stands on its merits. These doctors do not operate that way. They operate together, they bargain together, and they milk as much as they can. You cannot do that, Mr Westende.

**Mr Westende:** My employees do. I have just been through enterprise bargaining with them.

**MR BERRY:** A great point. If you get into dispute with them, you can whiz them off to the Industrial Relations Commission and you can have a dispute settling process that will sort the matter out. That is the difference. In 1987 the visiting medical officers or part-time specialists held the ACT community to ransom with an eight-month strike that saw public patients refused non-critical treatment at our hospitals. I had reported to me on the phone this morning an example of a woman who was being confined. She called her obstetrician, who said, "I will come and treat you if you sign a piece of paper that you are a private patient; otherwise I will not come". Shame, shame, shame! She then called upon another doctor, who was ashamed of the behaviour of his colleague and attended and did the job for nothing.

Some went interstate in 1987; others took out mortgages; and some waited in pain. The greedy doctors running the system seem prepared to let this recur. In fact, as Dr John O'Donnell, the executive director of clinical services, stated on ABC radio this morning, at times he has to bargain with the doctors controlling the dispute to obtain treatment for a patient in urgent need. People are put in gaol for that sort of assault. This is in direct contrast to the extremely hardworking salaried medical officers, placed in the unenviable position of begging a VMO to provide treatment and finding these requests refused. Of course, these salaried medical officers are subject to awards and a dispute settling opportunity in the Industrial Relations Commission.

In August, the Auditor-General found that there was a lack of information on previous negotiations with the AMA. I am talking about Mr Humphries's reign there; he did nothing. Mr Humphries, as I suggested earlier, folded on the issue of the provision of ophthalmology in the Territory; he gave in, with the gun at the head.

**Mr Humphries:** At least they were working in my system.

**MR BERRY:** You would pay them anything because they are your mates. There were payments of up to \$1.3m for fee for service VMOs. That probably explains Mrs Carnell's turnaround from her earlier statements that their wages were untenable. She probably discovered how friendly they were to the Liberal Party. The Auditor-General found that VMOs in Canberra are amongst the highest paid in Australia; the ACT Government could save \$1m if payments were more consistent with national rates; annual payments would be \$900,000 less if a single rate of on-call allowance were paid; an estimated 1,000 public patient admissions may involve some element of irregularity or fraud in the payments made to doctors; the procedure for the admission and treatment of obstetric cases is resulting in increased costs; and there were allegations of booking fees being charged.

Those are the issues, and others, we are going to address. Reports by the Auditor-General are not to be taken lightly, and I have moved to implement the recommendations, which include procedures to reduce the risk that payments are made for services not provided and basing the ACT public system schedule on the medical benefits schedule, as mentioned by the Auditor. There are significant savings to the ACT on that score. The doctors reject that. They want it altered in order that they can make more money out of it. They do not want that schedule. (*Extension of time granted*)

It was also recommended that there be a review of the rates of payments, to achieve national consistency. After all, this Territory is funded on the basis of national averages. We complain all the time about the fairness or otherwise of that, but we have to make sure that some of our payments are brought more into line. If we pay more than those rates, we end up having to cut services elsewhere. Further, we are going to require sessional VMO attendance sheets to be correctly filled out before payment; reform payment of on-call rates; consider data sharing with the Commonwealth to address the potential for fraud; review the admission and treatment of obstetrics patients; and address allegations of booking fees being required.

The issues raised in this report must be addressed. You cannot have one standard in society for nurses, one for plumbers and one for visiting medical officers. They have to comply with the same norms. No-one contracts a plumber on his terms and provides a blank cheque for work without any evidence of it. This is, in effect, what Canberra's VMOs received before 20 November. No-one in Australia has security of tenure and no-one in Australia receives automatic indexation. I ask: Why should Canberra's VMOs?

Just to give an example of the average weekly earnings, in 1991 the increase in average weekly earnings was 3.1 per cent. For a pathology specialist, the increase was 7.71 per cent; for radiology specialists 7.89 per cent; for general practitioners 5.02 per cent - the GP did not do so well; for physician specialists 9.04 per cent; for surgeons and obstetricians/gynaecologists 9.36 per cent; and for anaesthetists 10 per cent. In 1992 average weekly earnings increased by 3 per cent; for pathologists the increase was 3.25 per cent; for radiologists 4.7 per cent; and for specialist physicians 3.6 per cent. All of them were consistently well above average weekly earnings. What the VMOs argue is that their private offices ought to be covered by these extra costs. Well, they will not be covered from the public hospital system. We provide a lot of the facilities.

Since the eight-month strike in 1987, the doctors have enjoyed automatic indexation; a unique ACT schedule above the Medicare benefit schedule for fee for service work; choice over type of contract - sessional or fee for service; automatic right to renew contracts; arguably the highest rate for any VMOs in the country, presently \$132 an hour; and generous on-call rates of \$84 a day and \$13 an hour for fee for service and sessional contracts respectively. The provisions in the previous contracts can be described only as outrageous and full of contradictions.

While the doctors call themselves independent contractors, they participate in collusive tendering, they expect security of tenure, they accept ACT Health paying the superannuation guarantee levy, and they will work only if automatic indexation is guaranteed. What greed! This does not sound to me much like independent contractors. The Government has offered contracts that abolish automatic indexation; give the hospital choice over type of contract - and we ought to have control over that; apply the national Medicare benefit schedule to fee for service work; abolish the automatic right to renewal; and provide a sessional rate of \$132 an hour, to include the superannuation guarantee levy, and an on-call rate of \$7 an hour for sessional contracts or \$84 a day for fee for service contracts. This still provides very generous conditions when compared Australia-wide. There is no question that this is a generous offer.

24 November 1993

The Liberals' position on the VMOs has been at best ambiguous. The traditional role of the Liberals has been to defend the privileged across this country, and they are at it again. Mrs Carnell says, "Quickly, reinstate their very high incomes; quickly, please. They cannot survive without it".

**Mr De Domenico:** No, she did not say that.

**MR BERRY:** She said that in a press release.

**Mr Humphries:** That is not true.

**MR BERRY:** Here it goes: "The Minister should extend the existing contracts".

**Mr Connolly:** Yes, reinstate those high wage rates.

**MR BERRY:** Reinstate those high wages. Nothing would change.

VMOs have various sources of income. It is not uncommon to see them earning \$500,000 a year. In fact, it is becoming more common, and they want it to be more common still. The end has to come to that sort of growth in medical costs. We have to do something. We have to make a stand, and we are doing so. They must go to arbitration and cop the arbitrator's outcome. We have provided them with an avenue to do that. All they need to do is demonstrate good faith, and you should use your influence to make sure that they do.

**Mr Humphries:** Madam Speaker, on a point of order: Mr Berry interjected during Mrs Carnell's remarks to describe her as "You silly woman". I think that comment is unparliamentary.

**Mr Berry:** I withdraw it.

**Mr Humphries:** It is also quite clearly a sexist slur on Mrs Carnell.

**MADAM SPEAKER:** Mr Humphries, he has withdrawn it. Could we have points of order taken when they arise, as far as possible?

**MR DE DOMENICO (11.23):** Madam Speaker, while we are on the people calling people names syndrome, quite obviously, after Mr Lamont and Mr Berry have spoken, we have now been exposed to industrial relations ALP style in the ACT. We need to think about some of the things the Minister for Health and Minister for Industrial Relations has said about visiting medical officers. It is no wonder that we are in the position we find ourselves in now. Let us look at what Mr Berry has said from time to time. On the Matthew Abraham show last Monday morning Mr Berry said:

Well, I guess it boils down to how long the VMOs are prepared to continue with their dishonourable behaviour.

Mr Berry again, on the same program, said:

They're only interested in lining their pockets ... and they don't care about the discomfort of patients. I mean, we're dealing with a different breed of people here.

**Mr Humphries:** That is really conciliatory language, is it not?

**MR DE DOMENICO:** Very conciliatory. Here is another quote from Mr Berry:

Now there comes a point in time where service provision turns into something which could be described as parasitic.

This is modern industrial relations, ACT style, Wayne Berry style. Is it any wonder that we find ourselves in the position we are in now? Mr Berry and Mr Lamont have talked about conciliation; they have not used the word "arbitration".

Let us get back to the point at hand. Visiting medical officers in the ACT had a contract signed off by the Health Department and saying, "We both agree to abide by the rules and conditions as set out in this contract". Both parties must agree or else the contract is null and void. What does the contract say? Let us have a look at what the contract says. Let us read all the lines; let us read all the words. Clause 6, Operating Arrangements, says:

The arbitrator shall determine the processes to be followed in arbitration, shall not be bound to act in a formal manner and shall not be bound by any rules of evidence but may inform himself/herself on any matter in such manner as he/she sees fit.

The arbitrator is not bound by any rules of evidence. One would think that that is not what the Industrial Relations Commission is all about. As I understand it, and I could be incorrect, that is exactly why it cannot go to the Industrial Relations Commission. The Industrial Relations Commission, in so far as this contract is concerned, has no jurisdiction. There is no award involved; there is a contract of service, signed by two parties who when they sign the contract agree to abide by it. That is what it is all about.

Currently, there is no contract because the Industrial Relations Minister, who is also the Health Minister, over the period has met with the AMA face to face, in his own words yesterday, "Once". While we are flying pregnant women into Sydney and Melbourne and it is costing us a fortune, the Minister for Industrial Relations and Minister for Health - the man who looks like Paul Keating and cries like Bob Hawke - comes into this place and says that he has met with them once. He talked about ancient history, about Mr Humphries. When Mr Humphries was Health Minister there was no walkout by visiting medical officers and there was no walkout by nurses. That is another interesting point. Let us see what credibility the Industrial Relations Minister and Health Minister has in the medical community. A press release dated 23 November - yesterday - from the ACT branch of the ANF states:

"ACT Health practices Industrial Relations New Zealand style with a left wing Labor Minister at the helm!!" stated Colleen Duff, secretary of the ANF.

Nurses have been offered to separately negotiate their contracted hours of work. Management are trying to pressure nurses into reducing their hours of work to accommodate the planned roster changes.

24 November 1993

Anybody who listens to Mr Berry on radio in the morning would believe that that is exactly what is happening - the old arm twisting, even with the nurses. This is not the Liberal Party saying anything; this is the Australian Nursing Federation saying what they think of Mr Berry's credibility: Zilch. They are saying, "Mr Berry, you could not settle a Ludo game. You could not settle anything, mate, because you have archaic ideological bents that prevent you from acting rationally".

Let us go into the history. The contracts for the ACT VMOs were renegotiated in 1987-88, before self-government. Guess who was in power then? Not a Liberal Party government but a Federal Labor government. This was negotiated in 1987-88 under a Federal Labor government. In 1990 the ACT VMO contracts were negotiated with little difficulty and no acrimony. In 1990 perfect negotiations went through, not even involving the then Minister. The Health Department got together with the VMOs - - -

**Ms Ellis:** He did not act then either.

**MR DE DOMENICO:** There was no need. It was settled before the Minister got involved. Let us compare that with what we have now. Currently we have no VMOs working. We have the community of the ACT suffering, because this Minister opposite here, gutless, cannot go in eyeball to eyeball to talk to the AMA. He will not do it himself. He will send in the troops, let them do all the arguing for him, and perhaps if it is settled at the end he will stick up his hand, like Mr Hawke used to do in the 1960s and 1970s, and say, "Gee, aren't I good". That is how you handle industrial relations. He goes on radio and calls doctors parasites. That is the way to settle industrial relations disputes, according to this Minister. It is no wonder that we are in the situation we find ourselves in now.

Mrs Carnell quite clearly said what the facts are in New South Wales. Mr Lamont stood up and said, "But what do they do in New South Wales?". They adopt a certain practice in New South Wales because under the New South Wales Hospitals Act that is what they have to do. Quite obviously, Mr Lamont and Mr Berry have not read the contract that was signed by the two parties in 1990. Once again, it is a contract both parties have to abide by. If Mr Berry was concerned about what was happening he would have abided by the contract, and said, "Listen, if you are concerned, let us start talking three months before 20 November". So three months before 20 November, or prior to that date, if Mr Berry was concerned he should have got together with the doctors. He could have settled it by 20 November, as happened in 1990, and we would not have found ourselves in this situation.

Did that happen? Of course it did not happen, because Mr Berry needed a few wins. He needed to try to cut down his overspending of his health budget. How do you do that? Put the jackboots into the visiting medical officers. After all, he considers them to be parasites. He said so on the Matthew Abraham show. This dispute is all about the inability of this Health Minister, of this Industrial Relations Minister, of this Government, to sit down eyeball to eyeball - - -

**Mr Lamont:** I rise on a point of order, Mr Deputy Speaker. It is normal practice in this chamber for a member, when speaking, to address the Chair as opposed to the journalists who may be in the chamber.

**MR DEPUTY SPEAKER:** There is no point of order.

**MR DE DOMENICO:** Thank you, Mr Deputy Speaker. I am glad that you treated that with the disdain it deserved. This dispute is all about the fact that this gutless Minister opposite is not prepared to go eyeball to eyeball with the AMA and sit down and settle this dispute.

**Mr Berry:** I did, for three hours.

**MR DE DOMENICO:** You did not. You have spoken to them once. Mr Humphries did not need to speak with them because we did not get to this situation. It got sorted out. What is happening here is that this Minister is, as I said before, and I will repeat it over and over again, gutless. Send in the troops to do the dirty work and do not do anything yourself. Go on radio, call them parasites, call them what you will; then expect them to turn around and shake your hand the day after and say, "Yes, Mr Berry, you have been so nice to me that I will do whatever you want me to do". That is not the way to handle industrial relations. If you really want to settle this dispute, you go and talk to the AMA today, physically. Go to their office and sit down with them and talk to them.

**Mr Berry:** Done it.

**MR DE DOMENICO:** You have not done that. That is not true, and you know that it is not true. But that is what we expect from you. The nurses do not trust you; the doctors do not trust you; the people of the ACT do not trust you. It is no wonder that we find ourselves in the situation we are in now. I think what you should do, if you really want to settle this dispute, is extend the contract, as Mrs Carnell said, up until the end of December and, in the meantime, you personally go and talk to them. Get enough guts to go there and talk to them yourself and settle this dispute. The community, Mr Berry, will not blame the doctors. Ultimately, you have the responsibility as Minister for Health to provide the health facilities. Why do you not stand up and take up your responsibilities? If you cannot, you should be sacked.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (11.33): Mr Deputy Speaker, there is no question that the doctors' walkout from the public hospital system is putting the ACT in one of the most severe crises we have faced in self-government. The legitimacy of a government attempting to achieve savings across the board is being challenged by an industrial group with one of the most powerful weapons in the industrial armoury at their command. The doctors literally have the power of life and death, and they have withdrawn that in an industrial dispute. No blue-collar union has ever done that in the ACT, but the doctors are prepared to do it.

In the extraordinary mishmash of rhetoric that Mr De Domenico has just spouted, one of the most extraordinary challenges he put to Mr Berry was to say, "Mr Berry, you are gutless". On the contrary, what Mr Berry is doing here is taking an extraordinarily courageous stance, which has the full support of all his colleagues. Mr Humphries, when he was Minister, settled the dispute in much

24 November 1993

the same way as a bank teller may settle a bank robbery when a gun is held at his head. He gave away the cash. What Mrs Carnell is urging now is that, again, we just give away the cash and pay the doctors what they want. This dispute carries with it a lot more than just the salaries the doctors are paid. Mrs Carnell says, when under pressure, "Yes, the doctors are paid too much and we have to bring them into line with the sorts of sacrifices the rest of the community has had to suffer". But, when pressed, she always sides with the doctors against the Government.

Since self-government, the process this administration has been grappling with has been a process of fairly and equitably reducing expenditure across a range of areas of ACT expenditure. We have had a number of industrial crises in that process, and I will talk about just a couple that I have personally been involved with. In the first budget that was brought down when I became a member of this Labor Government, we reduced expenditure on the Federal Police. It had never happened before, but we said that the police budget must be dealt with like any other budget. We achieved that. There was some industrial unrest. The AFP at one stage threatened some bans; but the AFP, when they were threatening bans, made it abundantly clear that those bans would never be applied in life-threatening situations. The Australian Federal Police Association consistently said that their bans would be applied to revenue but not to life-threatening situations. That is in marked distinction to what the doctors are doing.

That matter got resolved because the AFPA accepted that the police budget would be treated like any other budget and that cuts would be equitably spread across the board. The doctors want to be different. They are the only ones who will not accept a cut. You accuse Mr Berry of being gutless. If Mr Berry did what Mr Humphries did and signed the piece of paper and gave in, the police union could legitimately say, "Why should we cooperate with the Government? Why do we not place a ban on going out to assaults? If we do that, the Government will cave in to us like they caved in to the doctors".

That is why this issue is so important. If Mr Berry gives the doctors what they want, the whole house of cards in industrial relations and achieving savings targets collapses. Every union that has at the end of the day cooperated, has gone to arbitration, has accepted change, will say, "Why should we go down that process of cooperation? Why should we go down that process of accepting that everybody has to make cuts and savings? We should just hold out, take the most painful weapon available in our industrial armoury, hold it at the head of a government, and a government will then collapse". This Government will not collapse. Mr De Domenico's absurd charge of gutlessness in this dispute could not be further from the truth.

We have to maintain the position that the doctors have to accept that they are like any other workers. In their view, they are different from the ACTION workers. They are different from the bus drivers, who Mr De Domenico is quick to say should have their overtime slashed, should have their allowances slashed, should have their general wages slashed. That is fine. There is one set of rules that applies to the old bus driver eating his pie at the lunch kiosk and a different set of rules that applies to these specialists who have lunch at the Commonwealth Club with their Liberal Party mates. They are to be treated differently from the bus driver.

**Mr De Domenico:** When have I said that? Tell us the truth now.

**MR CONNOLLY:** When have you said that? You have said in the Estimates Committee report and you said yesterday that we need to take urgent action to slash overtime payments in the ACTION bus system. Whom does that affect? I will tell you whom that affects. It affects bus drivers and mechanics, and we have reduced overtime in both of those areas. We had a three-day strike in 1991-92 over a new bus rostering arrangement that this Government forced through and that had a significant impact on overtime take-home payments that bus drivers enjoyed. They were unhappy about it and they went on strike for three days over that issue. At the end of the day, they accepted a reduction in their take-home pay on the basis that everybody else was having to accept changes.

When rostering changes were made in the police force, again through 1992, those rostering changes did affect the take-home pay that some police enjoyed. It did affect them; there is no question about that. But the Police Association accepted it. Everyone has to accept some savings, everyone is going through difficult times, and they copped that. But not the doctors. Overtime for workers is one thing, but on-call allowances for professionals is another.

**Mr De Domenico:** How many have done it for nothing over the years?

**MR CONNOLLY:** You rant and you rave, Mr De Domenico, about allowance rorts - one of your favourite phrases - but the doctors are different. This Government does not see that there is a difference industrially between the bus worker having his pie and the professional doctor having lunch with his Liberal mates in the Commonwealth Club.

This Government says that they all have to accept that we live in times of constraint. They must accept that they cannot continue with the extraordinary rates of pay they achieved some years ago by holding a gun at the head of the then Federal Government and had re-endorsed in 1990, it would appear, by holding a gun at the head of the Alliance Government. These doctors should do what every other industrial group that has been in dispute with this Government has done and go to arbitration. We cop arbitration. Mr Berry said that we will cop the arbitration outcome.

**Mr De Domenico:** But they do not trust you.

**MR CONNOLLY:** It is not trusting Mr Berry; it is trusting the Industrial Relations Commission. It is trusting an arbitrator. Your absurd "We want an independent arbitrator and we will offer Mrs Carnell as an independent arbitrator" was a cheap political stunt, and was seen as such by both sides. We are saying that the doctors, like everybody else, should accept arbitration. That is what the Industrial Relations Commission is there for. That is where everybody else ends up. That is where the police dispute ended up, that is where the transport workers dispute ended up, that is where the metal workers dispute over cutting back overtime - the same basic premise as what is going on with the doctors - ended up. That is where the issue of redundancies ended up, and you people crow constantly because there was a decision adverse to the Government which the Government copped.

24 November 1993

This Government wants to resolve industrial disputes through arbitration and will always cop the outcome. The doctors think they are different. The doctors think that because they are professionals different rules apply. The doctors think that by holding a gun at the head of the Canberra community, with one of the most powerful weapons that any industrial group has ever used - the weapon of life and death - they will get this Government to collapse and surrender. If the Government did that, it would deserve the unending condemnation of the Canberra community and it would deserve to be called a traitor to every other group of workers who have gone through a process of workplace change and workplace reform - the process on which you, Mr De Domenico, are constantly urging us to go faster and farther. Every other group of workers in this community has accepted change that in some cases has meant a reduction in salary rates.

**Mr De Domenico:** When was the last time you called a bus driver a parasite?

**MR CONNOLLY:** I have referred to one dispute as the world's most absurd industrial dispute. There has been some fairly tough rhetoric between a few prominent trade union leaders and me over the past couple of years; but at the end of the day we always accept arbitration, and the doctors should do the same. Every member of this Assembly should join in this motion to urge the doctors to accept arbitration. We will cop the decision of the independent umpire. Will the AMA?

**MR HUMPHRIES (11.42):** Madam Speaker, Mr Lamont made reference to our discussions last night about these motions, and I also want to put something on the record about last night's discussions. Mr Lamont said that in moving this motion today he hoped to be able to engender a bipartisan approach which would, by unanimous vote on the Assembly floor, bring this dispute to a swift end. If Mr Lamont really intended to build bipartisan support for this motion, the language he used in his remarks and the language used by his colleagues in this debate has done absolutely nothing to achieve that end; nor, of course, was it calculated to achieve that end. This motion has nothing whatever to do with settling the doctors dispute. It has to do entirely with shoring up the position of Mr Berry, the Government's hardline standard bearer in this matter, and making cheap points against the Liberal Opposition in this place. It has nothing, apart from that, to do with settling the doctors dispute.

Let me put very clearly on the record the answer to a question by Mr Connolly. The Liberal Party in this place fully endorses the position that says that the VMOs must accept pay and conditions which are inferior to those that applied before the end of their contracts at midnight last Saturday. The Liberal Party does not pretend for one instant that that level of pay and conditions could be or should be sustained. The world has changed since those contracts were drawn up. The situation of their brethren in New South Wales is different. The situation, arguably, of hardship applying to a post in the ACT no longer applies.

For every one of those reasons, it is appropriate for the doctors to accept fully that their position must decline relative to what they enjoyed before. The point is that they have accepted that fact. They have made it clear that they are going to have to accept that. The position they came to the Government with, when they managed to get to speak to anybody in the Government about this subject some

time ago, was that there would have to be a set of conditions and pay which was less than they were getting at the present time. They have accepted that. Have they asked for more, Madam Chief Minister? Have they asked for the same? If they have not asked for the same and they have not asked for more, they must be asking for less, must they not, logically?

The VMOs are not free of guilt in this debate, let us make that quite clear; but the fact of life is that neither is this Government and neither is this Minister. We cannot accept a resolution of a dispute through this place which somehow argues that the Government is all right and the VMOs are all wrong and that the VMOs must capitulate completely to the Government's position in order to settle this dispute. That is what Mr Berry wants. He says, "Settle the dispute on our terms".

**Mr Berry:** No.

**MR HUMPHRIES:** Yes, yes, yes. He is saying, "Settle this dispute on our terms". The Minister says no. Let me read this motion:

That the Legislative Assembly urge the Visiting Medical Officers -

there is no mention of the Government -

to end their strike in public hospitals and accept arbitration as the means for resolving the current dispute.

That is the Government's position. That and that alone is the Government's position. This motion asks the Assembly to endorse the Government's position fully and to denounce that of the VMOs equally fully. The rhetoric by the Minister in this dispute has not been designed to settle this process. In fact, his rhetoric has been reminiscent of the most inflammatory language of what Mr Berry would probably call the conservatives in putting down strikes in the past. It reminded me of nothing more than the sort of remarks we used to hear from Joh Bjelke-Petersen in denouncing striking electricity workers or people like that.

**Mr Lamont:** Look what happened in the pilots strike.

**MR HUMPHRIES:** Possibly, yes, but certainly others denouncing strikes against a conservative government, so-called, elsewhere in Australia: "We will not be held to ransom; these people are intransigent; these people are parasites on the system". That is inflammatory language. It is not designed to settle this dispute - in fact, I would suggest quite the contrary. It is designed to inflame the dispute. It is designed to prolong the dispute. It seems to be a dispute this Government wants to have. It wants it to reach the stage where people are actually going to get hurt, and that is absolutely disgraceful.

It is not the only example of confrontation and a confrontational style within this Government. The nurses, as Mr De Domenico pointed out, are also locked in mortal combat with the Government. The things they have said about this Minister indicate very clearly that the one common denominator in all these industrial confrontations throughout the health system is Mr Wayne Berry, the Minister for Health, the man who pours petrol on a fire, the man who wants to make these disputes go to the point where disaster strikes, where people actually get hurt. That is what Mr Berry is all about, and he has succeeded in reaching that stage.

24 November 1993

It all relates, I submit, to a trait in Mr Berry's character. He has a deep and abiding animosity towards, in particular, doctors, whom he sees and always has seen as parasites in the system, as overpaid professionals who ought to be cut down to size. Nowhere has his Rambo-style conciliation approach been more typified than by the comments he has made about things like training doctors - "Why do we need to train doctors? We do not want any more doctors in Canberra" - by his comments, unsubstantiated, in the Estimates Committee that doctors were deliberately lengthening the waiting lists in the ACT. He could not substantiate those comments either in the Estimates Committee or here. He could not prove that that was the case, but he made the claim that doctors deliberately exacerbate waiting lists. Where is the evidence? Table the evidence.

Mr Berry clearly detests doctors. He is a man who clearly believes that this kind of conflict proves his case that doctors are parasites and that their industrial position should be eradicated. I think this Government, and particularly this Minister, see great merit in deliberately engineering the level of conflict which has now accrued in our hospital system. It is all to do with Mr Berry being seen to take on people he believes are electorally less popular than himself - and that is saying something - and engineering a dispute that will somehow redeem him and his appalling image in this community, particularly as far as the electors of the Ginninderra electorate are concerned.

Let us touch on this important question of past VMOs' contracts and settlement of disputes before. Mr Berry has pointed a finger at me as a former Minister for Health and said, "Mr Humphries settled those disputes on lavish terms. He settled them on terms which somehow meant that the community of the ACT was suffering more in a financial sense than they were suffering in a medical sense before the dispute was settled". Mr Berry was referring there to the ophthalmologists dispute, which I think we settled early in 1991 or late in 1990. Prior to that point people were not being treated, and I am talking particularly about pensioners, for things like cataracts on the eyes. If you do not know, Mr Berry, cataracts can cause you to go blind. Those people were not being treated when I became Minister for Health. I worked hard to settle that dispute, and I did that - something Mr Berry could not do while he was Minister.

I would have expected, in following the argument Mr Berry and Mr Connolly have put before this place, that when I settled either the VMOs' contracts in 1990 or the ophthalmologists dispute in early 1991 they would have come out and attacked me for having settled those disputes on overly generous terms; or, presumably, that they would have asked me in the course of the settlement of those matters on what terms I did settle them. Did they do so? No, they did not.

**Mr Berry:** It was a secret deal.

**MR HUMPHRIES:** You did not ask about the deal. You did not ask for any details. Of course it was secret. You did not want to know about it. You did not ask anything about it. It is always a secret if you do not ask, and that is what happened. Mr Berry did not care how the ophthalmologists dispute was settled. He was embarrassed that I was able to settle it and he was not. Mr Connolly did not ask a single question about the terms on which we offered new VMO contracts in 1990, because he did not care. He was too busy with other things.

It is only suiting this Labor Government now to rewrite history and pretend that those disputes were somehow settled on unacceptable terms. The first whisper we hear about any problem with those contracts is in 1993. In 1990 and 1991, when they were actually settled, there was not a word. (*Extension of time granted*)

These hypocrites opposite pretend that they somehow were the champions of the public purse back in 1990 and 1991 and that we should never have settled those matters on those terms, but there is not a shred of evidence to support the contention that they were actually concerned at the time. They were not. Mr Berry wants to rewrite history to suit his own purposes, and he knows that it is just a load of baloney.

This motion calls on us as an Assembly to give carte blanche to this Government. That is not appropriate. I think it is more appropriate for the Assembly to press the Government to resume face-to-face negotiations between the Minister and the AMA to settle this dispute. To that effect, Madam Speaker, I have tabled an amendment, which I think has been circulated to members, that replaces most of the words in this motion with these words:

... urges the Minister for Health and the Visiting Medical Officers to immediately re-enter face-to-face negotiations to end the dispute in public hospitals, including if necessary arbitration as outlined in previous Visiting Medical Officers contracts.

A lot has been said across the chamber about the extent to which VMOs are subject to the Industrial Relations Commission processes.

**MADAM SPEAKER:** Mr Humphries, you will have to move that amendment.

**MR HUMPHRIES:** I will do so at the end of my remarks, Madam Speaker. There has been debate about whether the VMOs are subject to those sorts of industrial processes, and I think that debate, frankly, is quite pointless. It seems to me that we have a perfectly good procedure for resolving this matter, and that is to follow the processes outlined in the previous VMO contracts, which is to have an arbitrator appointed who is acceptable to both the parties.

**Mr Berry:** They can raise it in the Industrial Relations Commission.

**MR HUMPHRIES:** Hang on! Mr Berry says that they are intransigent, but he is being intransigent on this point. They say, "Let us have an arbitrator, as outlined in the VMO contracts" - contracts Mr Berry has lived with for the last two-and-a-half years. Will he accept an independent arbitrator outside the Industrial Relations Commission? Will he accept that? He turns away. He faces somebody else. He will not answer that question. The answer, of course, is no. He will not accept an arbitrator who is not formally part of the Industrial Relations Commission.

Mr Berry is digging in his heels every bit as far as the doctors are supposedly digging in their heels. For that reason, it is essential that we do not try to arbitrate this dispute in this place on terms which say that the VMOs must do everything the Government have demanded, and that is it. This amendment to the motion says in much more succinct terms that the parties must negotiate and, if they

24 November 1993

cannot negotiate an acceptable solution, they should turn to the appropriate next step, which is arbitration as per that agreement, to which Mr Berry was party as Minister for Health for the last two-and-a-half years. That is what should happen and that is what this amendment to the motion calls for. Madam Speaker, I move as an amendment:

Omit all words after "Assembly", substitute "urges the Minister for Health and the Visiting Medical Officers to immediately re-enter face-to-face negotiations to end the dispute in public hospitals, including if necessary arbitration as outlined in previous Visiting Medical Officers contracts."

Motion (by **Mr Lamont**) agreed to, with the concurrence of an absolute majority:

That so much of the standing and temporary orders be suspended as would prevent consideration of private members business, notice No. 2, relating to the strike by Visiting Medical Officers, taking precedence of executive business beyond the time fixed for the expiration of private members business.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (11.56): I want to put the Government's position in relation to the amendment. The Government will be opposing the amendment. The amendment is a lot of nonsense; it is just a little game Mr Humphries plays. You were spinning a web of deception about what would occur in relation to the Industrial Relations Commission. Already the matter has been notified, so the process will proceed. If the parties show good faith, and we will - all we need to rely on is that the AMA shows good faith and agrees to an arbitration process - it is then up to the parties to work out who might be the arbitrator. If within the arrangements of the Industrial Relations Commission the parties agree to an arbitrator, I am happy with that.

As far as face-to-face negotiations are concerned, that has already been done. It has been done to death over the last five or six months. I have met with them personally. I do not meet with everybody throughout the Government that has an industrial dispute, but I have met with them personally. We had a discussion one evening that went on for two or three hours. They took a proposal back to their members and rejected it. Reasonable contracts were offered, we agreed to the \$132 amount, and so on. We have bent over backwards to deal with the AMA. They have been particularly intransigent on the whole issue.

The Government will oppose the amendment and support the motion. I repeat what I quoted earlier in response to Mrs Carnell:

If your members are prepared to sign the contracts I will ensure the discussions continue on those matters outside the core elements on which the rate of \$132 per hour depends. I guarantee that agreed outcomes from those discussions will apply where applicable from the date on which the contracts are signed.

So we are offering outcomes in good faith. I continued:

Similar dispute settling mechanisms to those set out in the contracts could be developed to deal with disputed matters.

I table that letter for the interest of members. It sets out the Government's position and our reliance on good faith from the AMA. I hope that we get it when they go to the Industrial Relations Commission tomorrow.

**MR KAINE** (11.59): Madam Speaker, I have listened to the debate this morning, which has gone on for a quite long time. The thing that concerns me is that the same vitriolic approach to the subject that has been taken on the floor of the house has obviously been taken outside it. I simply make an appeal for commonsense to prevail in this business. We are not talking about some minor matter. We are talking about the possibility of a total collapse of our health system. We are talking about a situation where people needing urgent surgery simply cannot get it without being put in an ambulance or on an aeroplane and sent to another capital city to have that treatment. That is unacceptable.

I put myself in the position of the 300,000 people out there who have not been privy to this debate. I do not know the ins and outs of the pros and cons of the argument; I have not been involved in it. But nothing has convinced me this morning that any kind of commonsense has been applied to the debate so far. The Minister says that there has been five months' worth of negotiation; at the same time, he says that he has spoken to the VMOs once. Where on earth is commonsense?

I think we have a problem here that we are going to have difficulty getting around. Both the person moving this motion and the Minister are ex-trade union officials, and they see the resolution of problems only in the context of the formal arbitration and conciliation system that applies for trade unions. They need to see this problem from a different viewpoint. They need to view it from the position of the rest of us, who are not industrial relations experts, nor do we want to be, but we do want to see a resolution of this problem. Rushing in, as the Minister seems to be doing, without any decent discussion at all at his level, rushing into the arbitration system, which was not set up for resolving this kind of dispute in the first place, is rushing headlong into a very formal conflict resolution problem that we do not need to get into. I am absolutely confident that if the Minister were to spend more than 10 minutes talking to the VMOs face to face - - -

**Mr Berry:** I have done - three hours.

**Mrs Carnell:** Once.

**Mr Berry:** No, I have met them on another occasion as well.

**MR KAINE:** You have told us that it was only once. I find it quite appalling that we have a situation where our hospitals, in terms of surgery, are virtually closed. We have a community of 300,000 people here, plus another couple of hundred thousand out in the hinterland who depend on our hospitals for their medical treatment, and for all practical purposes it has stopped. Who on earth in good conscience could even sit here for two hours this morning and argue the point on the pros and cons of the technicalities? The fact is that we have no operating hospitals.

24 November 1993

**Mr Berry:** Yes, we have.

**MR Kaine:** You might be happy, Mr Berry, but I am not. I live in dread that a member of my family is going to require surgery while all this nonsense is going on.

**Mr Berry:** They will be looked after.

**MR Kaine:** And you are going to put them on an aeroplane and send them to Melbourne or Sydney. I only hope that they survive long enough to get there. This is an absurdity, and I do not believe that the Minister has taken the matter seriously at all. He has not grasped how serious the situation is. Either he does not want to know or he does not care, or he is hung up on some ideology about doctors. Mr Connolly talked about Liberals eating with their cronies at the Commonwealth Club. I have been to the Commonwealth Club only once in the last two years, and who was sitting at the next table having lunch with his cronies? Mr Connolly. I do not know what cronies they were. I suppose that they were some of the Gucci socialists he associates with. The effrontery of these people, the insults they sling around - and that was intended to be an insult. Mr Connolly got hoist with his own petard.

Why do we need to throw this invective around? Why do we need to call each other names? Why does Mr Berry need to vilify a person who happens to be in the medical profession, who takes that on for a living? Where does he justify that? What he should be doing is talking to these people on a one-to-one basis to find out what on earth they really want and to resolve the matter. But no, we sit up in our ivory tower on the fifth floor and tell them that they are parasites. We tell them, "If you want this problem resolved, let us go to the Industrial Relations Commission".

Why do you not take the blinkers off, Minister? Why does not your industrial relations adviser, Mr Lamont, advise you to take the blinkers off and stop looking at this problem from the viewpoint of a trade union matter, because it is not a trade union matter. Look at it from the point of view of the people in this city who require medical treatment and cannot get it. Look at it from that viewpoint, a totally different one, and see how we can resolve the problem - resolve it now, resolve it quickly, resolve it informally - and get the doctors back to work.

I cannot understand how these people can live with their consciences. They carry on in this fashion and they do not give a hoot about the patients; they clearly do not. They do not give them a moment's thought. The Minister himself gets on radio this morning and says, "Tough luck, you did not get any sleep last night". Obviously he got plenty. His sleep was not disturbed by this.

**Mr Berry:** Because my conscience is clear.

**MR Kaine:** And so was the conscience of the doctor you were talking to. He was trying to resolve the problem. He had been working all night to resolve the problem. What were you doing? You were having a good sleep at home. You are not worried about the patients, you are not worried about the doctors, you are not worried about anything except adopting some ideological position from which you do not intend to budge one bit. You have Mr Lamont ably supporting you, putting forward a nonsense motion that does nothing to resolve the problem anyway.

**Mr Lamont:** Yes, it does.

**MR Kaine:** It does nothing. Do you mean to tell me that passing that motion you have put to the Assembly this morning is going to resolve anything? It will do nothing. Your Chief Minister yesterday walked out of here and said, "The censure motion meant nothing". If a censure motion against the Chief Minister means nothing, this motion in connection with VMOs means less than nothing. It is a bit of a face-saver. It is Mr Lamont trying to jack up the Labor Party's position on this and justify themselves in some fashion. You cannot do it, Mr Lamont. The people out there are making their judgment about Mr Berry and about this Government. By your putting this motion forward this morning, they are linking you with it now.

**Mr Lamont:** And you are wrong.

**MR Kaine:** I am dead right. There are 300,000 people out there who are, like me, scared to death that either they or a member of their family are going to require hospitalisation. What are you going to do with them? Mr Berry is going to say, "Put them in an ambulance and send them to Sydney. It does not matter how urgent the treatment is, it does not matter how bad their need is for surgery. Put them in an ambulance and send them to Sydney". That is Mr Berry's solution to the problem. All it requires is a little bit of commonsense. I speak with some authority, and Mr Lamont can support me. When I was the Minister for Industrial Relations, that is just what I did. When we got into disputes with the trade unions, I did not say to them, "Go to the Industrial Relations Commission". I said, "Come up to my office and we will have a chat about this and see what your problem is".

**Mr Lamont:** And when you could not work it out you said, quite rightly, "There is the umpire. Go to the umpire".

**MR Kaine:** But we usually worked it out, did we not, Mr Lamont?

**Mr Lamont:** You were a bit easier to deal with, I must admit.

**MR Kaine:** If you do not believe me, go and ask Neville Betts of the ETU what happened when we got into a dispute about corporatising ACTEW. The trade unionists came up to my office, we talked about it, we identified their problems, and I met them halfway.

**Mr Lamont:** So the doctors are a trade union?

**MR Kaine:** No; I am talking about conflict resolution.

**Mr Berry:** We have done that.

**MR Kaine:** But you have not done that, because when they did not see your point of view you said, "Bugger off; we are closing the doors on you". That is not commonsense, it is not negotiation, it is not anything.

24 November 1993

**Mr Berry:** We offered them \$132 an hour.

**MR Kaine:** You offered them, obviously, nothing they find acceptable. If I had said to the trade unionists, when they came into my office after I invited them up there, "I am not interested in your viewpoint; just go away", I would have had a problem on my hands too. But I did not do that. I listened to what they had to say, and when I felt that the public servants who had been negotiating on my behalf were wrong I acknowledged that. When the trade unionists left my office they were happy with the outcome. You can do that, Mr Berry. You are just as good a man as I am, underneath that exterior. For heaven's sake, do your job and solve the problem - and do it today.

**MS SZUTY (12.09):** Madam Speaker, I support the motion proposed by Mr Lamont. I will not be supporting the amendment to the motion proposed by Mr Humphries earlier today. My only regret is that the Industrial Relations Commission will not be in a position to order the doctors back to work while the current dispute goes through the arbitration process, as it can with unions covered by registered awards. It is my belief that, as visiting medical officers are happy to accept minimum conditions, as per the deed of understanding which was created in 1987 and renewed in 1990, they should also accept that an independent arbitrator, the Industrial Relations Commission, should be turned to when there is a dispute of this current magnitude in existence, one that is affecting many people in our community.

I do not believe that the doctors want to be in the position they currently find themselves in; that is, responding only to emergency cases, and even then in a restricted capacity, observing people whom they would normally treat as public hospital patients being taken interstate and their suffering extended. While I am sure that the doctors would say that it is the Government's fault that they are in this position, I believe that difficulties exist with their approach to this dispute. Of course it is to be expected that, when their income and tenure are threatened, doctors would respond by refusing to accept lesser conditions, which would be the reaction of many people placed in this situation. But how do the doctors see themselves? Are they contractors who accept the terms of their contracts and then renegotiate for the best deal they can get, or are they members of a collective bargaining organisation? If they see themselves as the latter, then they are honour bound to accept the offer of arbitration.

I have heard much during the last few weeks about the costs to doctors of running their private practices and that these costs are a factor in their demands for maintenance of the status quo. But the question can be asked: What other group in our community claiming to be contractors negotiates with one group, ACT Health, on the basis of what it costs to provide services to another group, private patients?

There is no doubt that doctors provide an invaluable service in our community. In a perfect world, they would be paid sufficiently to meet all of their needs. However, as a community we can no longer make those commitments to any group of workers. Many people are unable to find work; many workers need to have their income supplemented because their expenditure exceeds their income. It is a current reality that many workers cannot make plans based on their incomes constantly increasing or even remaining the same. The reality is that, by being in private practice, doctors are in fact operating small businesses.

They take on the same responsibilities as other small businesses and accept the risks associated with that decision, including the fact that their incomes can be directly affected by a downturn in patient numbers and by the economic climate.

I believe that the Government has offered every opportunity to the doctors to have their contracts dispute heard by an independent arbiter, the Industrial Relations Commission. The commissioners have the expertise to hear and arbitrate on complex contractual matters and, under the model of workplace bargaining arrangements, will have a role to fulfil in relation to enterprise agreements. While the doctors may not feel that they can be compared to employees, they must still face the reality that months of negotiations have left the ACT without a full range of hospital services and with a stalemate situation which at the moment can produce only further acrimony between the parties involved and suffering in the community. This is not the outcome the community, this Assembly or the Government wants. I believe that it is important that the doctors accept the conditions of their deed of understanding and accept the jurisdiction of the Industrial Relations Commission.

In future, the situation should be clear cut - that future contracts are contracts and not de facto tenure agreements. No-one else in the community has access to automatic renewal of contracts, only options. Workplace reform is the currency of the 1990s. The current dispute needs to be resolved through arbitration, and I feel that it is now incumbent on the doctors to recognise that they cannot now refuse a legitimate avenue which remains open to resolve this dispute.

I strongly urge the visiting medical officers, in the interests of the people of Canberra, to avail themselves of the remedy for disputes, which they agreed to in 1987 and 1990. In so doing, I would ask that both parties go into that process of arbitration with a willingness to accept that the outcome from that process is bound to be more productive than any further public argument and continuing distress to the people of Canberra.

**MR LAMONT (12.15):** Madam Speaker, I thank Ms Szuty in particular for her contribution. The issues raised succinctly in her address to this Assembly predicate the basis upon which I believe that this motion should be considered by the Assembly. There are a couple of matters I wish to lay to rest. First, Mr Humphries said, "It really is just a motion put up to prop up the Government". The simple fact is that, as I said to him last night in the Administration and Procedures Committee, I believe that it is appropriate that the Assembly discuss and consider this matter and that as a private member I had a right to place on the notice paper for consideration whatever motion I believed was appropriate.

I hoped that out of this motion we would have all-party support for a method of resolving this dispute. That was my desire. Lo and behold, at 20 minutes past 10 this morning, before this Assembly sat, Mrs Carnell advised that her party would not be supporting the motion. Before we sat this morning, the advice I received was that Mrs Carnell had made that announcement. What we find, Mr Humphries, is that before we came into this chamber your leader had already determined that you would not support it. Is it any wonder that, with some degree of passion, I will admit, I addressed myself to the general issue that is the subject of this motion?

24 November 1993

The other thing I find difficult to come to grips with is Mrs Carnell saying, "Look, New South Wales are resolving it. New South Wales are going to come to a reasonable outcome". How did New South Wales get to a reasonable outcome? Irrespective of whether it is contained in the Health Act, irrespective of whether it is contained in any other Act, irrespective of whether it is contained in the individual contracts, the simple fact is that they are using the arbitral process. They are using that body as the mechanism to resolve the dispute. That is all that this motion seeks to do. It says, "Whatever gets put on the table gets put on the table". If both parties agree that they appoint a person other than the arbitrator to determine particular matters, so be it; but let this process be the catalyst for resolving the dispute, for getting the visiting medical officers to end their strike, for getting medical specialist services back into the hospital system, and allow the matter to be resolved. That is what this motion is saying.

It was asked, I think somewhat rhetorically, by Mr Kaine, "In reality, what good is this motion going to do?". I will tell you what good it is going to do. If it is passed unanimously by this chamber, it will say to the visiting medical officers in no uncertain terms, "This chamber in its entirety believes that you should end your strike - not end your strike and cave in, but end your strike and accept a proper basis for the resolution of the differences between you and the Government". That is what would be said. Those people would not be getting the succour they are getting from the Opposition to continue the push to hold out. That is what unanimous support for this motion would provide. If it were unanimous, I believe that it would be significant enough to convince the VMOs, in good faith, to approach the commission tomorrow and say, "Yes, we are prepared to be bound by an outcome. We are prepared to end the strike, and we are prepared to negotiate reasonably". That is what this motion, if supported unanimously, would provide.

Let us look at whether or not the Industrial Relations Commission is an appropriate catalyst - a forum, if you like - to start down this track. As outlined by Ms Szuty and by me in my introductory remarks, we have individual contractors. If those individual contractors had an individual dispute about a particular matter within their contract that they wished to have individually sorted out, then I agree that the most appropriate method for its resolution, if they cannot get agreement singularly with their employer as an independent contractor, is to seek to have some independent arbiter resolve that individual contract. That is not the case here. What we have here is a group of persons engaged in or in connection with basically the same profession. Those independent contractors are acting in a collusive manner across and between themselves. They are acting in a manner consistent with all of the philosophies of organised labour. As Ms Szuty said, you cannot have it both ways. You cannot expect to have all of those things which collective bargaining allows you to achieve across an industry and on the other hand say, "We are not prepared to accept the obligations that come with it".

The obligation that comes with collective bargaining, the obligation that comes with the common good as they see it, negotiating in the common good as a collective, is that there must be an umpire. If they do not believe that the individual arbitrator, commissioner whoever, is the appropriate individual arbitrator, attending the Industrial Relations Commission tomorrow still provides

the opportunity for them to put a counter view to the commission and for the commissioner to say, "I accept your point; this may be a way we can now proceed to resolve it". I have had enough experience within the commission to know that, if one party goes in and says, "Mr Commissioner, or Madam Commissioner, we are implacably opposed to the position of the employer or the position of the union and we believe that this is the way this should be resolved", the commissioner will take that into account in assessing the most appropriate way to resolve the matter in the community interest, and I emphasise that - not in the doctors' interest, not in the Government's interest, but in the community interest.

I can see that Mr De Domenico and the twenty-six-million-dollar man behind him are getting upset when I talk about the community interest. That may be one reason why they do not see the Industrial Relations Commission as the appropriate forum. There is an underlying tenet which the Industrial Relations Commission must take into account in the prevention and settlement of disputes, and that is the community interest. The commission has said time and time again that if the community interest is served by adopting a particular course of action to resolve this dispute the commission is duty bound to adopt it.

If you go along with the doctors saying, "No, no, we do not want you individually to resolve this; we want you to set up another mechanism", if that is agreed, if that is the way it is arbitrated, the Government has said that it will accept that. There has to be a starting point to the end of this dispute. We have passed the beginning, we have passed the middle, and now we are at the end. But we are at the end of this dispute only if the doctors are prepared to accept what I would consider to be the olive branch that has been held out, and that is to use the Industrial Relations Commission as the basis upon which this whole issue is resolved - not only resolved for this part of the dispute, but resolved for all time.

I have found in the past, when dealing with independent contractors who have gone collectively to the commission, that the commission has set up a process for independent contractors as a collective to resolve their outstanding issues. At times that resolution has been achieved through arbitration by a third private arbitrator and not by the commissioner. That is an opportunity the AMA has to argue tomorrow. I hope, Mr Kaine, that you will see the sense in the proposal I have outlined. I believe that you will, and I would suggest that the unanimous support of the chamber for this motion can go some way towards saying to both the community and the doctors that we as an Assembly are concerned enough to see this dispute resolved. Madam Speaker, I reject the amendment of Mr Humphries and commend the motion.

Amendment negatived.

Motion agreed to.

**Sitting suspended from 12.30 to 2.30 pm**

## QUESTIONS WITHOUT NOTICE

### Visiting Medical Officers Dispute

**MR MOORE:** Madam Speaker, my question is directed to Mr Berry, the Minister for Health. The question follows the motion in the Assembly today calling on VMOs to go to arbitration, which motion was passed without a dissenting voice. One of the VMOs who are currently on strike was reported in the *Canberra Times* this morning as having provided a free on-call service for the past six years and he now suggests that he will make a claim in arrears for services rendered. Firstly, are the doctors on strike actually getting paid? Secondly, what is the likelihood of such a claim being successful and how much is it likely to cost the ACT?

**MR BERRY:** It was very interesting that Dr Shanahan relied on the contract for the claim that he said he would make in relation to being on call. It would be nice if he stuck to that part of the arrangements that existed when the contract was formed that was about arbitration, would it not? On-call costs for six years at current rates of pay are estimated to be about \$103,584.

However, in the case of Dr Shanahan, that would have to be dramatically reduced because, following the 1987 strike, he refused to sign a VMO contract. He stayed on strike, in effect. He did not sign until 1990 when Mr Humphries, over here, with the gun at the head, settled the dispute, like in a bank robbery. He settled the dispute by handing over the money - an amicable settlement. The teller says, "We now agree that you can have the money. You take the gun away from my head". Of course, that involved a settlement with a very high fee in the fee for service arrangements which applied in respect of Dr Shanahan. What I find most unfortunate about this is that somebody not only would use the community as bargaining chips in this whole debate but also would grossly misrepresent what has been going on. Dr Shanahan, if he was being fair dinkum, ought to have told the community that he had been on strike for three years, that he had squeezed some more money out of the Government, and that in fact the only person who could help him was Gary Humphries. He folded when Gary Humphries folded. That is the picture, Mr Moore.

**MR MOORE:** I have a supplementary question, Madam Speaker. There was another part of the question - "Are the doctors on strike getting paid at the moment?". I would like you to expand on that question if you could. Are they on strike at the moment and, if so, is ACT Health saving money that may well assist in avoiding a further budget blow-out?

**MR BERRY:** The doctors who do not have a contract are not being paid. Doctors who have a contract will be paid.

**Mr Moore:** Even though they are not working.

**MR BERRY:** They will be paid. If they are sessional contracts they will be paid in accordance with their sessional arrangements. If they are fee for service contracts they will be paid in accordance with those arrangements, the ones that I have offered. I have given some detail about the contracts that have been offered.

As I have said before, they rank with the best in Australia, and I would urge doctors to sign them. Doctors who have refused to take out a contract are not being paid.

As far as savings go, we are quite prepared not to make any savings because we want to treat people. It appears that the doctors do not. As far as that goes, it will, of course, cost us significant amounts of money to keep the hospitals running, because we are not going to attack all those other loyal staff who are working diligently within the hospital system as a result of the VMOs strike. We are not going to do that. I do not think there are going to be many savings in it. It is very hard to work out because it is very hard to work out from day to day what the doctors will do because of the guerilla tactics that they are using in this strike action that they are taking.

**Mr Cornwell:** You find finance difficult to work out anyway.

**MR BERRY:** Well, it is hard, and that is all you can describe it as. At the end of the day I think there will be a cost impact on the system. It will have an effect on the budget because we are not operating at a level where we will be able to deliver the 50,500 admissions that we said we would. I think that is a summary of the picture, Mr Moore; but, as it develops, I am sure that I will make clear to members in the Assembly what is happening.

### **Hospital Waiting Lists**

**MRS CARNELL:** Madam Speaker, my question is also for the Minister for Health. The Minister, in an interjection on 20 November 1990, told the Assembly, when referring to Mr Humphries, that waiting lists had exploded through the roof. Subsequently, in an article on 11 June 1991, when describing his priorities as the new Minister for Health, he said that his priorities were, amongst other things, to reduce hospital waiting lists. He went on in that article to say that long hospital waiting lists were a clear indicator that the system was not providing a necessary level of service. Was the Minister accurately quoted? If so, what has gone wrong, given that there has been a 91 per cent increase in waiting lists since he took office? What excuses can he offer for the fact that waiting lists not only have exploded through the roof but now seem to have gone into orbit?

**Mr De Domenico:** It is the doctors' fault.

**Mr Humphries:** The doctors, the nurses.

**MADAM SPEAKER:** Order! I believe that Mr Berry is answering the question.

**MR BERRY:** That is a silly question. The claim of 91 per cent does not address the issues which have resulted in the current waiting lists. Waiting lists are one indicator of hospital performance. Everybody knows that. They are one indicator. If that was the only indicator that you had you could say that the variation in waiting lists was a measurement of hospital performance. You have to take into account, as I have said over and over again, the average length of stay and the number of people you are treating in the hospital system, and in both areas this Government has done extra well. For example, the average length of stay continues to fall. We are becoming more efficient, people are spending less time acutely ill in the hospital system, and we are treating more people.

24 November 1993

I have said, and it is part of the budget process, that we will treat 50,500 people this year. Members opposite are also aware that waiting lists are not the measure you use for total hospital performance; they do not complete the full picture. They have to take into account other factors. We changed the way we measure waiting lists in the ACT when we discovered what both this Government and Mr Humphries's Government did. The way they have been counted for some time was an inaccurate presentation. It was this Government that clarified the issue. No more people were waiting as a result of that change in the way we booked elective patients. No more people ended up waiting as a result of those changes. We have made sure that there is an accurate presentation of the number of people who are waiting.

At the same time we have also demonstrated to the community, in a way that it has never been demonstrated before, the performance of our hospital system. The quarterly report that we have presented makes very clear how our hospital system is performing, and it is performing. The September quarterly report demonstrates that the hospital system is performing much better, and nobody can deny that.

**Mr Humphries:** Yes, they can.

**MR BERRY:** Well, the Liberals would. Returning to the issue of waiting lists, somebody interjected earlier that doctors get the blame. I am not the one who puts people on the waiting lists; neither do my hospital staff. The people who nominate people for the elective waiting lists are the surgeons and all the specialists out there, and it is their judgment that we have to rely on. We have heard reports of overservicing. We also know that there is a declining market out there in the private sector, and doctors are complaining about the reduction in profits as a result of that. We also know that there has been a very steep increase in the number of people who have been placed on waiting lists in the period leading up to the negotiations which are occurring on these VMO contracts. I have a feeling that there was some politics in that because of the contracts that were coming up.

**Mrs Carnell:** Not just sick people.

**MR BERRY:** No, I think there was some politics. There has been a very steep increase in the number of people going on the waiting lists, and it became very noticeable after March this year. Some time ago, Madam Speaker, there was also a quick rush to include people on the waiting lists when it was announced that more access would be provided to people with the longest waiting lists. All of a sudden there was a sudden interest in putting people on the waiting lists; if you have the longest waiting list you get more access to the hospital system. All of these factors have to be taken into account.

**Mr De Domenico:** The big picture.

**MR BERRY:** That is right; the big picture. It is something that was never developed in the reign of Mr Humphries. It is now becoming clearer to everybody that we are able to produce a picture that shows all aspects of performance within the hospital system. Coming back to waiting lists again, the quarterly report also shows that the percentage of people waiting three months or less is growing, so that is another area of performance where we are doing better - - -

**Mrs Carnell:** And there are people waiting 12 months or longer.

**MR BERRY:** No, you are wrong. The percentage of people who are waiting 12 months or more is declining. Madam Speaker, whilst waiting lists are not a full measure, they do reflect an element of performance within the health system; but it is not altogether the performance of the hospital system, it is also the performance of the medical professionals who refer people to those lists. The hospital performance can be measured by the length of time they stay on the lists. You can see that the percentage of people who wait three months or less is increasing. Overall I think the community out there can be satisfied that the hospital system has performed well up until the point of the strike by the visiting medical officers. They will have to wear the blame for any effect on the hospital system from that point on.

### **Emergency Hospital Services**

**MS ELLIS:** Madam Speaker, my question is directed to the Deputy Chief Minister in his capacity as Minister for Health. I refer to an interview I heard on ABC radio this morning. Can the Minister inform the Assembly about claims that staff at Woden Valley Hospital are being forced more or less to beg with the doctors on the AMA telephone line in order to obtain treatment for patients in need?

**MR BERRY:** This is a very serious matter, Madam Speaker. Staff at the hospital are being placed under a great deal of pressure because a militant group within the AMA are controlling access by patients to their visiting medical officers. I will give you some examples of some of the cases. This will horrify you. The holder of the telephone through which access to VMOs is available requested that an eight-year-old - listen to this one - be transferred from Woden Valley Hospital to Calvary for orthopaedic care despite being aware that Calvary Public Hospital has no paediatric nursing facilities. That is unbelievable. They are asking that they be transferred from the paediatric ward to Calvary Hospital knowing full well that they do not have appropriate services there. This is all part of this industrial dispute.

The holder of the telephone through which access to VMOs is available held the view that a patient reassessed at Woden Valley Hospital after transfer from Calvary and being found to have appendicitis with perforation and peritonitis was not an emergency - what a disgrace! - and should be sent to Sydney. Another example is obstetricians altering usual clinical management and refusing to agree to patients requesting epidural analgesia in labour. What a disgrace! How do these people hold up their heads? How do they sleep? It is no wonder that Grahame Bates said that he could not sleep.

**Mrs Carnell:** He did not say that he could not sleep. He said that he was up all night trying to organise this roster.

**Mr Connolly:** Trying to organise this was what he was doing.

**MR BERRY:** Yes, to organise this chaos.

**Mr Humphries:** That is not fair. You should withdraw that.

24 November 1993

**MR BERRY:** They are organising this chaos.

**Mr Humphries:** Madam Speaker, I accept that the Minister is quite upset about what has been going on in the hospitals, but to describe a particular doctor in Canberra as being responsible for organising these sorts of incidents is a quite disgraceful attack on an individual. I would ask the person responsible for that allegation - I think it was Mr Connolly - to withdraw it.

**MADAM SPEAKER:** We have no standing order to cover that. There is no point of order. Continue, Mr Berry.

**MR BERRY:** This chaos is being organised by those militant greedy elements within the AMA. There is no question about this. This will give you a demonstration of how these people operate. Earlier on, on 20 November, I received this letter from the president of the AMA in which he said:

With regard to the provision of emergency services, I am advised that individual specialists have indicated their willingness to provide emergency services -

not many of them, it seems -

which would include any case where a life or limb is threatened -

they changed their mind on that one, by the sound of it -

or if there is serious discomfort to the patient.

Perforation and peritonitis, on any judgment, on any measure, would threaten life anyway and would cause serious discomfort. What disgraceful behaviour! This is the most interesting part:

To this end a confinement is seen as urgent.

That is what they said in their letter. Then we go to what happened on ABC radio this morning. Dr Bates was talking about obstetrics and he said:

Now, when these instances are discussed amongst the division of O and G -

obstetrics and gynaecology -

they feel that to prevent disasters the method of handling patients has got to be altered. In other words, before a problem eventuates, if a patient is considered normal, it is felt that they should be moved out of Canberra -

it comes to what is normal -

and only the most urgent patients should be treated. We have not got a normal group of people to fall back on.

So what was considered urgent in their letter - "To this end a confinement is seen as urgent" - has now changed. The compere said:

So, a woman in the early stages of labour, early stages of labour, the idea is the AMA is now saying, shift her to another hospital.

So what was considered urgent before, a confinement, is now not considered urgent and she is going to be shipped out of town. Dr Grahame Bates said:

Yes.

She is on her way. This demonstrates the disgraceful behaviour of these people. The community is entitled to know that these things are going on. The pressure is on them. The pressure has to continue to be put on them to get into arbitration and to sort this matter out. This house, without dissent, called on the AMA to go to arbitration.

**Ms Follett:** That is tomorrow.

**MR BERRY:** That is tomorrow. They will get their chance tomorrow. We will just see how they go. They will go to the Industrial Relations Commission and they will get their chance. They will be able to talk about arbitration there. They will be able to talk about conciliation. The game is up tomorrow. They are going to have their chance to produce the goods and show the people of Canberra that they are prepared to act in good faith. Certainly there is no sign of it yet.

### **Hospital Activity Levels**

**MR DE DOMENICO:** My question without notice is directed to the Minister for Health, Mr Berry. Mr Berry, according to your latest ACT Health activity report, between the September quarter of 1992 and the September quarter of this year activity levels in the ACT hospitals actually increased by 2.4 per cent. I refer you, Minister, to the comments you made to the Estimates Committee where you said, "Well, we have been funded for the same amount of activity as last year". Minister, does the budget blow-out in Health announced yesterday correlate with that increase of 2.4 per cent? Do you still believe that the health system will service only 50,500 patients this year?

**MR BERRY:** If we get the doctors back to work, yes.

**MR DE DOMENICO:** I have a supplementary question, Madam Speaker. The figures that you released yesterday, Minister, the activity report, said that there was a 2.4 per cent increase in activity. Does that 2.4 per cent increase correlate with the \$3.1m blow-out that you have been responsible for since the beginning of the year?

**MR BERRY:** This is a whole heap of nonsense. This is the first quarter of a full year. Let us not forget that the budget has not even been passed yet. We are talking about the first quarter of a financial year and changes are implemented throughout the year. But I would have to say that, given the performance of the VMOs, at this stage it is difficult to predict what the budget outcome -

--

24 November 1993

**Mr De Domenico:** Blame the doctors. You cannot for the last three months, can you?

**MADAM SPEAKER:** Order!

**MR BERRY:** It is difficult to predict what the budget outcome will be and what the cost will be at this stage because - - -

**Mr Humphries:** We can predict it; it is going to blow out.

**Mr Kaine:** Try an \$8m blow-out by the end of the year. Write it on your pad now.

**MR BERRY:** You can guess all you like; but one thing, Mr Kaine, you can be assured of - in contrast - - -

**Mr Kaine:** That you will have a budget blow-out. That is what we can be assured of.

**MR BERRY:** No, no; in contrast - you are not going to like this - - -

**Mr Kaine:** And the waiting lists will get longer.

**MR BERRY:** You are not going to like this. Stick the tongue out and take the medicine.

**Mr Kaine:** The waiting lists will get longer and you will have a bigger blow-out.

**MADAM SPEAKER:** Order!

**MR BERRY:** In contrast to what it was like when you had control of these matters, as things occur you will be informed, and so will the community. When we asked you, you did not even know what was going on.

**Mr Humphries:** Last thing on a Friday night.

**Mr Kaine:** Only because this Assembly obligated you to do so. Until we did, you would not tell us anything.

**MADAM SPEAKER:** Order!

**Mr De Domenico:** You should resign.

**MADAM SPEAKER:** Order! Mr De Domenico, it is your question. Let us have some order.

**MR BERRY:** From time to time, as the budget position changes, whether affected by the VMOs strike or not, you will be informed about it.

### **Electoral Legislation**

**MS SZUTY:** My question without notice is to the Chief Minister, Ms Follett. The Assembly currently is waiting for the tabling of additional legislation with regard to the conduct of future elections in the ACT. When will the legislation be tabled, and to what extent will it be modelled on the Tasmanian Hare-Clark voting system?

**MS FOLLETT:** Madam Speaker, I do not believe that asking to what extent it will be modelled on the Tasmanian electoral legislation is in order.

**Mr Humphries:** Why not?

**MS FOLLETT:** Because it is purely hypothetical and it is asking me to - - -

**MADAM SPEAKER:** That is quite correct. The first part of the question is in order and the Chief Minister should confine her answer to that.

**MS FOLLETT:** It is also asking me to reveal in advance an item of Government business, which I am not obliged to do; so read your standing orders. Madam Speaker, members will know, of course, that the first part of that legislation has been introduced. That was the part that set up the Electoral Commission. The Electoral Commission has completed a very significant part of its work, which was to draw up the electoral boundaries establishing the three electorates for the ACT. That part of the work, an important part, has been done. The remainder of the electoral legislation is an extraordinarily complex task, as I am sure members are aware. It is progressing. I am told that it will be the largest Bill that this Assembly has ever seen. If what I am being told is that it is bigger than the planning legislation, then we are in for quite a treat. It is an exceptionally complex matter, Madam Speaker. I am still working on getting it into the Assembly this year. As members are aware, we have another couple of sitting weeks in this year, and that is my timetable. I am still working towards that.

### **Imported Chocolates**

**MR HUMPHRIES:** My question is directed to the Minister for Health. On 15 December last year the Minister criticised the Leader of the Opposition, Mrs Carnell, for having imported products on the shelves of her pharmacy. He also claimed that he was committed to creating Australian jobs. The Minister will recall his visit to Woden Valley Hospital on Friday, 5 November, which was seen on television screens. During his two-hour visit he handed out chocolates to nurses and other staff members. I ask the Minister - - -

**Mr Connolly:** You are really onto the big issues here, Gary. The Government will resign.

**MR HUMPHRIES:** He cannot answer the big issues, so I am trying him on a small issue for once - something that he might be able to get his teeth into. Madam Speaker, I ask the Minister specifically: How much did the chocolates cost? Why did the Minister feel it necessary to distribute imported, French chocolates rather than Australian made chocolates?

24 November 1993

**Mr Kaine:** It is like French clocks.

**MR HUMPHRIES:** It could be. Does the Minister still pretend that he supports the policy of buying local products or even Australian products wherever possible?

**MR BERRY:** What a joke! I recall the issue. I must recall the issue about Mrs Carnell. She was complaining about flags being made outside of the ACT. She really wanted the border gates put up again so that we could have customs duty on everything that came to the ACT; a bit of protectionism to protect industry in the ACT. She did not want ACT businesses to compete with businesses outside of the ACT.

**Mrs Carnell:** They sell Cadbury's.

**MR BERRY:** Who owns Cadbury's?

**Mrs Carnell:** You know where they are manufactured, don't you?

**Mr Humphries:** They are Australian made.

**MR BERRY:** Who owns them?

**Mrs Carnell:** They are Australian made.

**Mr Connolly:** No, New Zealand. Look at your wrapper.

**Mr Humphries:** They are Australian. They are made in Tasmania.

**Mr Connolly:** The bulk of them are made in New Zealand these days.

**MADAM SPEAKER:** Order! The Minister is well able to answer the question without all that assistance. Mr Berry has the floor.

**MR BERRY:** I have the floor. When I first heard about the accreditation of Woden Valley Hospital we were all waiting with bated breath. We knew that the accreditation process had been gone through and we were very apprehensive about the result. People, particularly Mrs Carnell, had been criticising the hospital system so much that some people were convinced that she was right. She is not. She is never right, so nothing has changed.

The accreditation news came through to me and I was over the moon because all of the staff out there who had put such a lot of work into their jobs and their professions had come up with a great result - accreditation for our hospital for a full three years. I wanted to do something very quickly in relation to that, so I asked somebody to get some chocolates. I needed to get out there quickly that afternoon. I think they probably bought them from a Canberra shop which probably made some profit out of it. When you are driving around in the Mercedes or the BMW or the little imported job from Japan, Mr Humphries, you might think about that as well. As far as I was concerned, good quality merchandise needed to be procured in a big lot, and it was procured and given out to the people who really deserved it.

**MR HUMPHRIES:** I have a supplementary question, Madam Speaker. I wonder whether Cadbury chocolates are any indication of the sort of chocolate that Mr Berry might have been able to buy, the sort that says proudly on its back wrapper, "Product of Australia". Mr Berry, how many nurses and staff members politely refused your offer of a chocolate because they hated your guts?

**MR BERRY:** What we wanted was some boxes of good quality chocolates and I think we got good quality. If I had had the opportunity to buy Australian ones at the same time, that would have occurred; but I needed them in a hurry because it was an important award. I have to say to you, Mr Humphries, that nobody refused them.

**Mr Humphries:** That is not true. We have been told that people refused. Telling lies, Wayne.

**Mr Berry:** I think we will have to - - -

**MADAM SPEAKER:** Order! Mr Stevenson is the only one standing, so Mr Stevenson has the question.

**Mr Stevenson:** What does that mean?

**MADAM SPEAKER:** However, Mr Stevenson, you have just been trumped here. Mr Berry has not finished.

**Mr Berry:** I raise a point of order. I think Mr Humphries said something about me lying. Of course, he will have to withdraw that in due course.

**MADAM SPEAKER:** Please withdraw that, Mr Humphries.

**Mr Humphries:** Madam Speaker, I think there are some nurses in the hospital who might back me up on this one; but, until they bring their stat decs forward, I withdraw.

### **Land Tax**

**MR STEVENSON:** My question is to the Chief Minister and it concerns land tax. About 10 years ago a young man built a home and, until the last year, has been working seven days a week, 14 to 16 hours a day, and has been living with his parents most of the time. He was charged land tax and sought an exemption, but it was not granted. He had not been renting the place. Until September this year it did not have a certificate of compliance. It has no floor coverings, has bare cement and has old sheets on the windows. It was certainly not bought as an investment property. He is getting married in January next year and will move into the home. Firstly, one would ask: Why was he not granted an exemption? He was living most of the time with his parents because he had some chance of being looked after due to the amount of time he was working. Secondly, the Revenue Office told him, when he applied for at least a pro rata refund on land tax paid to June next year, that there would be none although he would be living in the property from January. The first point is that it seems unreasonable to not grant an exemption in the first place. Secondly, it is obviously unreasonable not to grant a pro rata refund.

24 November 1993

**MS FOLLETT:** Madam Speaker, I thank Mr Stevenson for the question. It is one which has been across my desk as well. The reason why this particular constituent was not granted an exemption from land tax is that this is not his principal place of residence and, despite the fact that he does not have it rented, he could have.

**Mr Kaine:** So we now have a deemed rental situation; we deem that they could be getting rental.

**MS FOLLETT:** Madam Speaker, that has always been the case. People do not pay land tax on their principal place of residence. All members know that. They cannot pretend to be surprised by it. I presume that this particular person has not stated that the house which he owns is his principal place of residence, and he has not stated that because in fact he lives with his parents.

Members also know, as far as land tax goes, that we do not have a pro rata system; that a property is deemed liable for land tax on a particular date in the calendar year, and if it is liable on that date the taxpayer pays a year's land tax. On the other hand, if the property is not taxable on that date, regardless of whether it becomes subsequently rented or perhaps liable for land tax, the taxpayer gets a whole year's relief. We do not have a pro rata system. This matter was thoroughly discussed in the Assembly on several occasions when the land tax arrangements were changed. The reason why we do not have a pro rata system is simply that the expense of operating such a system and the administrative resources that would be required would have to be recouped in some way. The most obvious way of recouping such expenses is, of course, to increase the tax.

As far as I am aware, the constituent on whose behalf Mr Stevenson is questioning me has been absolutely correctly dealt with by the Revenue Office. I can understand his disappointment and I can understand also that he does not like having to pay this tax. Nobody would. I think that in fairness to the whole community the Revenue Office does have to take an approach that can be implemented across the whole community. I believe that in this particular case that is precisely what they have done.

**MR STEVENSON:** I have a brief supplementary question, Madam Speaker. The Chief Minister mentioned that the property could have been rented. Can it be rented without a certificate of compliance? If not, of course, it could not have been rented.

**MS FOLLETT:** I will take that question on notice, Madam Speaker, but I must say that it is not particularly germane to the land tax issue. If it had been the constituent's principal place of residence there would be no question that he is not liable for land tax on it. I think that is the basic test that has been applied in this case.

I ask, Madam Speaker, that further questions be placed on the notice paper.

**AUDITOR-GENERAL - REPORT NO. 9 OF 1993**  
**Overtime and Allowances**

**MADAM SPEAKER:** Members, I present, for your information, the Auditor-General's report No. 9 of 1993, "Overtime and Allowances".

Motion (by **Mr Berry**), by leave, agreed to:

That the Assembly authorises the publication of Auditor-General's report No. 9 of 1993.

Motion (by **Mr Berry**) agreed to:

That the Assembly takes note of the paper.

**PRIVILEGE**  
**Statement by Speaker and Referral**

**MADAM SPEAKER:** On 12 November the chairperson of the Select Committee on Estimates, Ms Szuty, gave written notice of a possible breach of privilege concerning the premature and unauthorised release of information in an article published in the *Canberra Times* on 12 November 1993. For the information of members, I table Ms Szuty's letter. The article referred to the recommendations of that committee's draft report which had not, at that stage, been presented to the Deputy Speaker for its printing and circulation. Under the provisions of standing order 71, I must determine whether or not the matter merits precedence over other business. If, in my opinion, the matter does merit precedence, I must inform the Assembly of the decision and the member who raised the matter may move a motion without notice forthwith to refer the matter to the Standing Committee on Administration and Procedures.

Assembly standing order 241 provides:

The evidence taken by any committee and documents presented to and proceedings and reports of the committee shall be strictly confidential and shall not be published or divulged by any member of the committee or by any other person, until the report of the committee has been presented to the Assembly: Provided always that the publication or divulging of any evidence, documents, proceedings or report confidentially to any person or persons by the committee or by any member of the committee for the execution of any clerical work or printing, or to the Speaker, a Member, or, if it be necessary, in the course of their duties, to the Clerk or other officers of the Assembly, shall not be deemed to be a breach of this standing order.

Under section 24 of the Australian Capital Territory (Self-Government) Act the Assembly and its members and committees have the same powers, including privileges and immunities, as those for the time being held by the House of Representatives and its members and committees. The publication of draft reports of committees before their presentation to the House of Representatives has been pursued as a matter of contempt.

24 November 1993

As Speaker I am not required to judge whether there has been a breach of privilege or a contempt of the Assembly. I can judge only whether the matter merits precedence. Having considered the newspaper article and Ms Szuty's complaint, I am prepared to allow precedence to a motion to refer the matter to the Standing Committee on Administration and Procedures.

Motion (by **Ms Szuty**) agreed to:

That the matter of the article in the *Canberra Times* of 12 November 1993 referring to the recommendations of the draft report of the Select Committee on Estimates 1993-94 be referred to the Standing Committee on Administration and Procedures as a matter relating to the privilege of the Assembly.

**PUBLIC ACCOUNTS - STANDING COMMITTEE**  
**Report on Monitoring of Budget Supplementation - Government Response**

**MS FOLLETT** (Chief Minister and Treasurer) (3.12): Madam Speaker, for the information of members, I present the Government's response to report No. 3 by the Standing Committee on Public Accounts entitled "Monitoring of Budget Supplementation by the Legislative Assembly". I move:

That the Assembly takes note of the paper.

Madam Speaker, on behalf of the Government I would like to thank the Public Accounts Committee for its report "Monitoring of Budget Supplementation by the Legislative Assembly". I am sure that members will understand the delay in responding, due in large part to the intensive efforts needed to put together this year's budget. The Government strongly supports the role of the Public Accounts Committee as essential to open and accountable government. In this instance the reference to the committee follows the recommendation of the 1992 Select Committee on Estimates in its report on the Appropriation Bill 1992-93. In undertaking its inquiry the committee sought from me information on current arrangements by which agencies receive budget supplementation and the mechanisms by which the Assembly is advised of budget supplementation provided to agencies. The committee also questioned Treasury officials at its public hearings.

The committee's report raises a number of complex issues and, I believe, proposes very effective solutions to many of these issues. The Government strongly supports the view that the Assembly should be provided with timely and relevant information on budget issues. The Government fully supports greater accountability to the Assembly and the provision of information in a more meaningful and relevant form. I believe that the Government has already demonstrated its strong commitment to this and I will continue to ensure further improvement in future years.

In this regard it would be of benefit to limit the time available for tabling of documents in the Assembly. The committee recommended that, if the Assembly is sitting when an instrument relating to any form of budget supplementation is signed, the instrument should be tabled during that sitting period. If the Assembly is not sitting, the documentation should be forwarded to the Speaker within three calendar days for circulation to all members.

The current arrangements are for instruments to be tabled within six sitting days. The Government agrees with this recommendation to the greatest extent possible. We will present the instruments within three working days if the Assembly is not sitting at the time of signing. To restrict the time available to three calendar days would jeopardise the accuracy of the information provided, particularly where weekends or public holidays are involved.

Madam Speaker, in recognition of the complexity of the documentation relating to supplementation, the Government has instituted improved monitoring processes for the budget and improved reporting to the Assembly. Reporting on use of allowances for wage and salary adjustments has been improved, notwithstanding that there is no requirement under the Audit Act to separately report on this matter. The 1992-93 outcome statements I tabled in the Assembly included information on the provision of information on supplementation for wage and salary adjustments in total and by specific program. In addition to such reporting, the Government has no objection to tabling relevant instruments in accordance with arrangements for tabling other documents.

The committee did not recommend a second Appropriation Bill and second Estimates Committee process each year. The Government does not believe that the cost of such a process could be justified and the resources required would go well beyond those currently available. Accordingly, the Government's response does not support the proposals in the committee's report that budget adjustments within the limits of the Audit and Appropriations Acts be subject to Assembly approval. No State or Territory parliament has adopted such a process and, apart from resource requirements, the Government is concerned that it would diminish rather than enhance the obligation of all programs to live within the budget originally set by the Assembly.

The Government fully accepts the recommendations of the committee that consistent presentation and terminology be used in the documentation of budget supplementation (recommendation 2); the reasons for supplementation be clearly shown (recommendation 3); the net effect of supplementation on both individual programs and the total amount appropriated by the Assembly be shown for each category of supplementation (recommendation 4); a final consolidated report be provided to the Assembly incorporating all forms of supplementation and showing the effect on a program basis (recommendation 7); budget papers and related papers show a reconciliation between budget and outcome, identifying the amounts and types of supplementation (recommendation 8). Madam Speaker, we also accept that, where possible, the estimated amount of anticipated salary and wage increases be included in the Supply or Appropriation Acts (recommendation 9); and information regarding supplementation be included in notes to agencies' financial statements and included in the guidelines for unitary financial statements (recommendation 10). Substantial progress on implementation of these proposed reforms was made in the 1993-94 budget. The arrangements instituted this year in reporting on the 1992-93 outcome provide for all forms of supplementation to be reported in a comprehensive and meaningful context.

24 November 1993

Once again, Madam Speaker, I would like to thank the members of the committee for their report. The proposals for improvements in accountability will provide, I believe, long-term benefits to the ACT budget arrangements. Further details on the Government's response are included in the statement that I have just tabled. Madam Speaker, I commend the Government's response to the report of the Public Accounts Committee on "Monitoring of Budget Supplementation by the Legislative Assembly".

Debate (on motion by **Mr Kaine**) adjourned.

Motion (by **Mr Berry**) proposed:

That so much of the standing and temporary orders be suspended as would prevent the resumption of the debate being made an order of the day for consideration as a cognate debate with Assembly business order of the day No. 9 relating to the Standing Committee on Public Accounts report No. 3 on "Monitoring of Budget Supplementation by the Legislative Assembly", and that both orders of the day be considered cognately with executive business order of the day No. 9 relating to the Appropriation Bill 1993-94.

**MR KAINÉ** (3.18): Madam Speaker, I would like to speak to that motion. The content of the report that the Chief Minister has just responded to is a totally different subject from the Appropriation Bill and the contents of it, and I do not see that it is sensible to try to debate this cognately. I think there needs to be a separate debate on the question of how the Government supplements its appropriation and the Assembly's involvement in that. That was the purpose of the PAC writing such a report. To try to subsume it into a debate on the Appropriation Bill, I think, is quite inappropriate, and I would oppose that.

Question resolved in the negative.

### **PUBLIC ACCOUNTS - STANDING COMMITTEE Report on Audit (Amendment) Bill 1993 - Government Response**

**MS FOLLETT** (Chief Minister and Treasurer) (3.19): Madam Speaker, for the information of members, I present the Government's response to report No. 1 by the Standing Committee on Public Accounts on the Audit (Amendment) Bill 1993 and I move:

That the Assembly takes note of the paper.

Madam Speaker, I have tabled the Government's response to report No. 1 of the Standing Committee on Public Accounts that was presented in the Assembly on 15 June 1993. The Government has given careful consideration to each of the recommendations contained in that report and the issues raised during debate on the Audit (Amendment) Bill 1993 which lies at the heart of this matter.

The committee was naturally concerned about the possible use of derivatives as a speculative form of investment. The Government shares their concern. Responsible fund managers do not use derivatives for speculation but as a form of insurance to protect against uncertainty in the future price of investments or borrowings. Derivatives are financial agreements that enable investors to buy or

sell market securities at a set price by a fixed date. Investors pay an initial premium to obtain an agreed future trading price for selected market securities. Most corporations, government entities and financial institutions regularly use derivatives to protect their borrowing and investment exposures.

This practice is known as hedging. Hedging of investments involves using derivative transactions to lock in a future sale price to protect against possible price falls. This effectively guarantees a minimum future rate of return on certain market securities irrespective of general market trends. However, investors can still obtain higher returns if, in the meantime, the actual market price were to rise. By reducing exposure to possible losses, this form of strategic investment is less speculative than relying solely on market expectations.

For example, Madam Speaker, an investor could consider that the price of particular shares may fall in the near future. Rather than selling the shares at the current market price, the investor could pay a premium for the right to choose to sell the underlying security at an agreed price by a future date. This right would be exercised if the share price did fall, or would be allowed to lapse if prices rose or remained steady. If prices happen to fall the loss is confined to the cost of the premium rather than the entire reduction in the share price. Of course, any profits made when the share prices rise are partly offset by the relatively small cost of the premium. In this instance the premium can be regarded in the same way as an insurance premium.

This strategy effectively enables the minimum value of the portfolio to be maintained at a predetermined level. Without this type of cover the investment manager would have to rely more on predicting exact market turning points to maximise returns, which is considered a more speculative form of investing. A speculator, on the other hand, seeks to use derivatives to make large profits with minimum outlay by gambling on future market changes and usually does not hold the underlying securities. Whereas the hedger is concerned with protecting existing investments against significant falls in their value, speculators will take deliberate risks and, if their forecasts are wrong, they can incur significant losses.

In terms of the Government's own use of derivatives, I should point out that the Audit Act 1989 requires that derivatives must relate to an existing borrowing or investment, thus guarding against speculation. It is not the intention of this Government to use derivatives for speculative purposes. The committee's report recommends that external fund managers should be able to use financial derivatives only up to a maximum limit of 5 per cent of the total value of investments. This proposal is intended to limit the use of derivatives, but would also have the effect of limiting the extent to which the fund manager could control market risk. Investments could thus be exposed to unnecessary risk, thereby defeating the intended purpose of the recommendation. An investment portfolio that does not have sufficient capacity to use derivatives for hedging purposes will require the funds manager to rely heavily on market timing decisions for the sale and the purchase of physical securities. This can be a high cost activity.

Clearly, it is difficult to develop specific legislation to suit every investment strategy. It is for this reason that the Government proposed that the individual contracts applying to external fund managers should contain authorisation controls and specific directions on the manner in which derivatives may be used to control risk. These controls and directions would be determined in the context of the particular investment portfolio. The key is not to prescribe an arbitrary limit for derivatives but to ensure that derivatives are applied strategically to control risk and are not used speculatively under any circumstances. This approach is consistent with the findings of the Commonwealth inquiry into collective investment schemes which considered that financial derivatives should be used only for genuine risk management purposes.

Mr Deputy Speaker, the Public Accounts Committee's report further proposed that all investments be undertaken through the ACT Borrowing and Investment Trust Account and that a management advisory board be established which would report directly to the Assembly. It was suggested that the proposed board comprise a broad base of expertise able to advise the Treasury on investment matters. Evidence was presented to the committee that independent expert investment advice is already being provided to Treasury. Currently the actuarial firm of Towers Perrin and the Commonwealth Bank advisory services are contracted to perform these roles. There is no evidence to indicate that a management board would provide better advice than that available under the existing arrangements.

It was also suggested that the proposed management board would achieve accountability to the Assembly and the Executive. There are extensive accountability arrangements already in place. Details of the ACT Borrowing and Investment Trust Account activities are included in the Treasurer's quarterly financial statement, the ACT Treasury annual report and audited financial statements. Furthermore, all accounts and records are subject to examination by the Auditor-General, whose report is published as a public document. Finally, borrowing and investment activities are, of course, subject to scrutiny by the Estimates Committee and the Public Accounts Committee. In this regard I am reassured by the Public Accounts Committee's acknowledgment that it is satisfied with the investment processes and the management strategies which have been developed. Under the Audit Act 1989 the Treasurer is accountable to the Assembly for the activities of the ACT Borrowing and Investment Trust Account and in my view this accountability cannot be delegated to or shared with another body such as the management board recommended by the committee. The Government therefore does not support the recommendations of the majority report of the committee.

Debate (on motion by **Mr Kaine**) adjourned.

## QUARTERLY FINANCIAL STATEMENT Paper

**MS FOLLETT** (Chief Minister and Treasurer) (3.27): Mr Deputy Speaker, for the information of members, I present the Treasurer's quarterly financial statement for the period 1 July until 30 September 1993 and I move:

That the Assembly takes note of the paper.

Mr Deputy Speaker, the Audit Act 1989 requires the Treasurer to publish a statement of the financial transactions of the Territory public account as soon as practicable after each quarter. The statement is published in a *Special Gazette* and I have agreed that it also be tabled in the Assembly. The statement I now table is for the quarter ending 30 September 1993. The statement is consistent with budget paper presentations and includes some explanatory notes to assist members of the Assembly and others in interpreting aggregate transaction data. I wish to caution members at this stage about using pro rata calculations on the data. In many instances such calculations may cause distortions if used to estimate an end of year outcome.

**MR KAINE** (3.28): Mr Deputy Speaker, I would like to comment briefly on the quarterly financial statement that the Chief Minister has just tabled. It makes some interesting reading. While I note the Chief Minister's warning about not using the pro rata figures, I think that some of this information does require some comment because there appear to be anomalies on a pro rata basis which are not explained. That is one of my biggest difficulties with these quarterly reports, which I have commented on before. It is all very well to produce a series of tables of dollar values, but without some explanation of what they mean sometimes they raise more questions than they answer.

The first and obvious one that I would like to look at is on page 11 of the statement, Program 26, Public and Community Health. The Minister tabled a statement earlier which showed \$3.07m overspent on his health budget. It is not reflected in this document. If you look at this document there is a major underspend as at the end of September. I keep asking the question: Does the Health Department run two sets of books or does it have one set of books? If the Minister can table a statement that shows the activity report for the health organisation on the same day and the figures do not add up, who is fooling whom and why? According to this statement, on the recurrent budget, a pro rata expenditure for a quarter would be almost exactly \$65m; and he has, in fact, according to this, spent \$64.636m.

**Mr Berry:** Yes, but you know the dangers of pro rata assessments.

**MR KAINE:** I am talking about the statement that you tabled that shows a \$3.07m overexpenditure. This does not show that, Minister. It shows that you are exactly on line on your recurrent budget, and it shows that you are about \$1m underexpended on your capital budget. According to this document you have underspent on your budget at this point. You have told us separately that you have a \$3m overexpenditure. That raises some questions that I think the Treasurer should be looking at and explaining.

24 November 1993

I could pull out a couple of others where there appear to be some anomalies. For example, on the government schooling program, which Mr Wood would be interested in, I am sure, according to this he is heading for a major overspend on his budget. He has spent nearly \$60m of a \$200m budget already.

**Mr Wood:** Don't worry about that, Trevor.

**MR KAINÉ:** We have heard "Don't worry about that". We hear it from the Minister for Health frequently, and we always end up with a budget blow-out which he then tries to disguise as good management. Presumably we are going to get the same story from the Education Minister this year: "We had a budget blow-out, but it was the result of good management". I do not know what is happening in Program 5, ACT Financial Management. Against the recurrent budget of \$87m they have spent only \$7m in the first quarter. Are we heading for a major underspend there? Is this another part of the Chief Minister's good management program whereby, at the end of the year, we end up \$30m ahead on revenues, \$30m behind on expenditures, and we have a \$60m windfall profit all because of good management?

I notice also that, under Capital Receipts, we are clearly headed for another one of those big windfall profits that we got last year, because against the \$52m projected revenue from land sales we have already, in the first quarter, collected close to \$20m. Year after year our performance on the sale of land is way in front of what the Treasurer and the Minister for Land came forward with as their estimate for the year. Last year, as I said, it was nearly \$30m over what they projected. It looks like we are headed for much the same sort of result this year. For heaven's sake, can they not get something like a decent estimate of what is happening in their organisations? Or do they just stick their finger up in the wind and say, "Which way is the wind blowing?"? These figures indicate that the budget is getting significantly out of whack in some areas.

The other thing that I would like to comment on is the ACT Borrowing and Investment Trust Account, because there are some significant variations from what one would have expected in this account. The Chief Minister just gave us a burst and said that she will not accept some of the PAC's recommendations on this matter because everything is under control and it is all accountable. Well, here we have the report for the first quarter and, against projected annual receipts of \$705m, in the first quarter she already has \$327m. She is nearly halfway there in three months. Is this the result of good management, bad management, or just good luck? Who knows? There is not a single explanation. The Chief Minister and Treasurer, she says, is accountable to the Assembly for this matter. Well, let us have some accountability. Let us have some explanation as to what is happening in this account.

On the expenditure side your budget is \$705m in round figures and you have spent only \$150m. If pro rata is not a reasonable basis to operate on, if you can come to me and say that it is reasonable to receive nearly half your expected receipts in the first three months and it is reasonable that you expend less than a quarter of your expenditure in the first three months, and there are good reasons for that, why do you not tell us what they are?

**Mr Berry:** No two quarters are the same.

**MR Kaine:** Madam Speaker, could you ask this Minister to pipe down? I am talking to the Treasurer - through you, of course.

**MADAM SPEAKER:** I will call him to order, Mr Kaine.

**MR Kaine:** Mr Berry clearly does not understand what I am talking about anyway, so he does not have to prattle on the way that he does. I accept the Treasurer's undertaking and commitment to the Assembly that she is accountable. Well, I would like her to be. I would like to know more than what is contained in this document about the ACT Borrowing and Investment Trust Account because it tells me nothing. It just gives me a bundle of figures that have no relevance to the original estimate, and the Chief Minister, who says that she is accountable to this Assembly, does not even bother to try to explain to us why the figures are as they are. In other words, there is no accountability; there is not even information, because what is there is useless.

Madam Speaker, the Public Accounts Committee has taken a reference to look at the way the Government maintains its accounts and the form of the reporting that it presents to the Assembly and the public. The Treasurer might understand why. These documents have no meaning whatsoever. They convey no information. They differ from other documents that are presented at the same time. The Minister for Health's statement does not coincide with what is stated in this document. Which one is correct, or is neither of them correct? Is, in fact, the blow-out \$6m and not \$3m? We do not know, because this document does not tell us. We are relying on the Minister for Health to tell us what is actually going on, and he knows, and everybody else knows, that we have had to prise information out of him. It is like getting him into a dentist's chair and getting at him with a pair of forceps. Otherwise we would not even be getting the periodic activity reports that we are getting now. We are getting them only because the Assembly insisted that he provide them, and he resisted strenuously for months, even after we passed the motion requiring him to do so.

It simply is not good enough. The documents convey no information. There is no sense of accountability on the part of the Treasurer or anybody else in tabling this kind of information, or this kind of misinformation or non-information. I would like to see some amplification of some of this information that is contained in here, so that I can understand what it is trying to tell me. Presumably it is trying to tell me something.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (3.37): Madam Speaker, I would like to correct something that Mr Kaine said. He said, "Mr Berry had to be dragged kicking and screaming - - -"

**Mr Kaine:** You did. You provided it only in response to a motion from this Assembly obliging you to do it.

**Mr Humphries:** Has he sought leave to make this statement, Madam Speaker?

**MADAM SPEAKER:** Order! There is a motion before us, Mr Humphries.

24 November 1993

**MR BERRY:** That is what I said; that I will be as quiet when you are speaking as you are when I am speaking. Madam Speaker, he said that the Assembly dragged me kicking and screaming to get the activity report. That is utter rubbish. The activity report was a development of ACT Health and was approved by me. The financial report which was given was the subject of a motion in this Assembly. Again, all that the Liberals wanted to do was to look at a small part of the picture and target a small part of it. They did not want to look at the good information that was flowing and the good performance. Mr Kaine, what I decided to do was to make the full picture available to you so that you can read all the good information, much as it galls you.

**Mr Kaine:** A bunch of graphs that convey no information. It is like the Treasurer's quarterly report.

**MR BERRY:** No, they would not convey much to you. They would not convey much to you, I know; but a lot of other people understand them. I am pleased to have had the opportunity to clarify that very important matter for Mr Kaine.

**Mr Kaine:** You have not clarified a thing.

**MR BERRY:** Because you are very slow on the uptake; that is why.

**MS FOLLETT** (Chief Minister and Treasurer) (3.39), in reply: Madam Speaker, I simply wish to reiterate what I said when I tabled the statement, which was that members must exercise caution in looking at a single quarter's results and attempting to extrapolate them for a full-year effect. This is simply not a valid thing to do. I was at great pains to say that in tabling the documents. I would urge Mr Kaine to take that statement seriously. Another difficulty that I had with Mr Kaine, Madam Speaker, was that the document which he was referring to was actually the *Special Gazette*, not the document which I tabled. It was a little difficult for me to follow the points he was making as the pages are not numbered the same.

Nevertheless, I would like to illustrate, as Mr Berry has done, another one of the difficulties with extrapolating from a pro rata figure. Mr Kaine referred to education and he postulated that education may be headed for a budget blow-out, to use his term, because of the figures that he sees in this first quarterly financial statement. Madam Speaker, there are some special factors in relation to Education which do affect the way that their figures are presented. One of those factors is that the self-management funds are paid to schools early on, and so are the Comcare premiums. They have been paid up front, and that is about \$6.5m. That is in addition to some seasonal factors, particularly if you look at this quarter, which I am sure are relevant, relating to fuel, light and so on. So, on education, there are reasons why this single quarter's figures are not representative of the end of year budget outcome.

As Mr Kaine full well knows, especially in his position with the Public Accounts Committee, it is open to him to inquire into these matters at any time. Indeed, the Assembly has been well informed on much of the inquiry done by that committee. Madam Speaker, there is no question, as Mr Kaine seemed to imply, that the Government is trying to hide these matters from the Assembly.

Mr Kaine is very welcome to inquire, as he indicated he was about to do, into these matters, and when his committee does inquire the Government will give him every assistance in making sure that the committee gets all of the information that it requires. It is also the case, Madam Speaker, that this kind of information is subject to scrutiny by the Estimates Committee. It has just been scrutinised by the Estimates Committee in great detail. Clearly, members can make whatever inquiries they wish during that very lengthy process. I believe that the accountability arrangements are adequate. Mr Kaine's committee may start, at the very first opportunity they wish to take, to make close inquiry into any of these matters, and if they do that they will be given every assistance.

Madam Speaker, as I have said before, I am not obliged to table these documents. I am obliged to publish them but not to table them. I table them as a courtesy to members and in the interest of having members fully informed - something in which I do have a genuine interest. If members want more information, if they want a closer explanation, and particularly if they want an indication of where pro rata figures may differ from one quarter to another, I am only too happy to take those matters on board and give them considered and well-researched answers to their questions.

Question resolved in the affirmative.

## PAPERS

**MR BERRY** (Deputy Chief Minister): For the information of members, I present the following papers:

ACT Health Activity Report, September Quarterly Report 1993.

National Road Transport Commission, Annual Report 1992-93, together with the financial statements and the Commonwealth Auditor-General's report.

Floriade Trust Account, financial statements for the period 1 November 1991 to 30 June 1992, together with the Auditor-General's report.

Floriade Trust Account, financial statements 1992-93, together with the Auditor-General's report.

Yarralumla Nursery Trust Account, financial statements 1992-93, together with the Auditor-General's report.

24 November 1993

**BUSINESS DELEGATION TO JAPAN**  
**Ministerial Statement and Paper**

**MS FOLLETT** (Chief Minister and Treasurer): Madam Speaker, I seek leave to make a ministerial statement on the ACT business delegation to Japan.

Leave granted.

**MS FOLLETT:** I thank members. I am very pleased today to be able to present the mission report from the ACT business delegation which I led to Japan between 23 October and 5 November 1993. The 13-person delegation was a joint Government and private sector initiative and emanated from approaches from the ACT chapter of the Australian Tourism Industry Association, the ACT Chamber of Commerce and Industry, and the Australia-Japan Society. I would like to record my appreciation for the manner in which all delegates acted as ambassadors for their city. Not only do we have a magnificent city to market, but also we have representatives who can articulate its virtues in any national or international forum. Madam Speaker, the overall costs of the delegation are currently being acquitted by Treasury. I can say that the cost will be contained within the initial budget estimate and, indeed, I expect that it will be substantially lower. To put the costs of the delegation into perspective, it is important to note that an increase of just 10 per cent in the number of Japanese tourists coming to Canberra would result in an additional \$250,000 flowing into our local economy.

Madam Speaker, I know that I share with all the members of the delegation a view that this first ACT Government-led overseas mission was, in the context of the relatively modest aims set, very successful. The group set out to raise awareness of Canberra as Australia's national capital, to market Canberra as an attractive business destination, and to promote Canberra as an attractive place to visit. I believe that the delegation pursued these aims vigorously and succeeded in raising Canberra's profile at very senior levels in the key areas of education, advanced technology and tourism. Whilst the mission was not a sales trip, it did have the further aim of allowing Canberra region companies with products or services to market in Japan to gain exposure during the delegation's visit. This was achieved through a number of direct representations and an extremely useful business directory. To this end I wish to compliment the ACT Chamber of Commerce and Industry on their production of the directory. I intend discussing with the chamber the possibility of extending the directory to a wider section of the business community for use in other marketing ventures.

Madam Speaker, there were a number of significant opportunities for Canberra which emerged during the mission. They are opportunities which will be realised only by an ongoing commitment from Government and business. I believe that the historic signing of the twinning agreement with Nara is of particular long-term significance to Canberra in the areas of arts, culture, sport, education, business and government. To maximise the benefits of the twinning agreement, I intend establishing a community based sister city committee. Specific opportunities which I would like the committee to pursue include the possible establishment of a Japan cultural centre in Canberra, including, for instance, Japanese gardens, a tea house and exhibition space, and featuring exhibits from Nara and other centres; more extensive exchanges in the areas of sport, education, arts and business; and the ongoing marketing and promotion of Canberra through a cooperative arrangement with Nara and/or the placement of a senior representative in Nara.

Nara, which is the ancient Japanese capital, lies in the Kansai region. It is a region which is undergoing dramatic growth and which is positioning itself through substantial infrastructure investment to be a major economic zone into the next century. Through Kansai science city, the new Kansai international airport and foreign access zones, such as the Asia/Pacific Trade Centre, the opportunity exists for ACT businesses to establish a foothold in the Japanese marketplace. The ACT has many boutique industries, including clothing, jewellery, giftware, leathersgoods, camping equipment, wine, furniture, et cetera, which could supply the Kansai region's boutique and small chain shops. There is also potential to market items such as wine, furniture, uniforms and giftware directly to companies in the region. To pursue these opportunities, the Government will investigate the possibility of assisting ACT businesses to take up commercial space in the Asia/Pacific Trade Centre.

Madam Speaker, in addition to the general benefits of goodwill and a greater understanding of Canberra, the mission report details the outcomes in the three areas of education, tourism and information technology. In education, greater collaboration was cultivated between schools and universities twinned with counterparts in Canberra. These, along with linkages established with education authorities and agencies in Nara, Osaka and Tokyo, should see an increase in student, teacher and curriculum exchanges. Of major importance was the signing by the Secretary of the Department of Education and Training of a contractual agreement with Ehle Atlas to market Canberra courses to full fee paying Japanese students. Opportunities for ACT companies in collaborative ventures were pursued whilst in Japan with companies in the areas of multimedia, geographical information system, language training and supercomputer applications.

The major interest from Japanese companies appeared to be in the purchase of technology which would allow them to produce software of a similar standard to that in the USA and Australia. The relationship between the ANU and Fujitsu in software applications for supercomputers was further advanced and will hopefully be extended into other educational and research areas. I believe that Fujitsu has already made a major contribution to Canberra and has provided the technology base on which the ANU's information technology research has grown to such national and international prestige. I will be encouraging the ANU to further develop the relationship.

In tourism, there are opportunities for Canberra to capture a greater share of an expanding Japanese outbound tourist market. This will require close collaboration between the industry and the Tourism Commission in developing appropriate packages for selling to the leading Japanese tourism wholesalers. It will also require collaboration with Qantas and Ansett, who will be flying additional flights into Japan through the new Kansai airport from next year. Whilst in Osaka and Tokyo a very good reception was received from the senior executives of the Japan Travel Bureau, Kintetsu and Nippon Travel. They now have a better understanding of Canberra's attractive tourism products. With further cultivation of the contacts and development of new products, such as education based tourism packages, I am convinced that we can substantially increase the number of Japanese tourists coming to Canberra.

24 November 1993

Madam Speaker, I believe that in Canberra we have many attributes to be proud of. It is a city region unique in Australia, if not in the world. Our quality of life, safety, open space and access to ecotourism, in addition to our national capital cultural attractions, are second to none. In education, research and advanced technology we have competitive products for the Asian market. It is important that all of us encourage these opportunities to be developed. I believe that the ACT business delegation to Japan took a first step in this development. Madam Speaker, I commend the mission report of the ACT business delegation to Japan to the Assembly. I present a copy of this statement and I move:

That the Assembly takes note of the papers.

In conclusion, Madam Speaker, I would like to depart from my normal practice and pay a special tribute to some of my own public servants whose work on this Japan delegation was of unparalleled excellence and of a dedication that was far above and beyond the call of duty. Those people are Dr Colin Adrian, Mr Ross Sue See and Miss Lorraine Cox. I am sure that all members of the delegation would join with me in commending the fantastic work that those three people, amongst a range of others - but those three in particular - did to make this mission such a success. I want to place on record my very heartfelt thanks to the three of them.

Question resolved in the affirmative.

### **LABOUR MINISTERS CONFERENCE** **Ministerial Statement**

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport): I seek leave to make a ministerial statement on the conference of Commonwealth, State and Territory Labour Ministers held in Canberra on 22 October 1993.

Leave granted.

**MR BERRY**: The conference of Commonwealth, State and Territory Labour Ministers which took place since the Assembly last met was held in Canberra on 22 October and, as you would expect, I represented the ACT Government. The chief item on the agenda was the package of amendments to the Industrial Relations Act proposed by the Federal Minister for Industrial Relations, the Hon. Laurie Brereton. I am happy to inform the Assembly that I was able to signal the broad support of the ACT Government for the Commonwealth's legislation proposal.

Assembly members will be aware that there is no system of State or Territory awards in the ACT. The policy approach of the Government is to avoid the duplication and proliferation of industrial relations tribunals. Our preference is that there should be a single industrial relations system for Australia. Pending the achievement of that reform, the ACT Government supports the harmonisation of the Federal and State systems. This will best serve the interests of national uniformity and maximise the likelihood of consistency of process and outcomes for Australian industry and workers.

The situation now and for the foreseeable future is, therefore, that all ACT employees who are employed under awards are covered by awards of the Australian Industrial Relations Commission. Accordingly, enforcement of award conditions, and the formal processes for the resolution of industrial disputes, generally fall within the Commonwealth's sphere of responsibility. Amendments to the Industrial Relations Act therefore have direct consequences for the conduct of industrial relations in the ACT. Accordingly, it was essential that there was consultation between the Federal Minister and me regarding his proposed legislation changes. The Labour Ministers conferences in April and October this year provided forums for that consultation.

Madam Speaker, let me now inform the Assembly briefly how the draft legislation, which was discussed at the Labour Ministers conference and which has now been introduced into the Federal Parliament, met the concerns which I had previously expressed on behalf of the ACT Government. The Bill provides for continued protection of workers by awards. Under the legislation, the commission is charged with ensuring that secure, relevant and consistent awards are provided. Thus the awards framework will be maintained as an effective safety net to underpin enterprise bargaining. The Bill provides for an award safety net stream and a direct bargaining stream, to be separately administered by the commission. However, the application of the no disadvantage test to certified agreements will ensure that awards remain as benchmarks for the certification and approval of agreements reached through direct bargaining.

The Bill seeks to extend access to enterprise bargaining to all workers within the coverage of Federal awards. In support of this objective, the Bill provides the security of minimum standards as regards minimum pay, equal pay, termination arrangements and parental leave, based on Australia's international obligations pursuant to ratified ILO conventions. This contrasts with what was proposed by the Liberals before the last Federal election. What they proposed to do was to undermine all of those protections for Australian workers and, of course, drive their wages and conditions down.

**Mr De Domenico:** That is rubbish. It is not true. Just stick to the script. It was all right until then.

**MR BERRY:** I thought it was a bit mundane. We needed to liven you up a little bit.

**Mr De Domenico:** No; it was truthful until you started saying what you just said.

**MR BERRY:** I think you might have to withdraw that.

**Mr De Domenico:** No; I said that the script was truthful until you started saying what you said. You had gone away from the script.

**MR BERRY:** That is an imputation that I - - -

**MADAM SPEAKER:** Mr De Domenico, if you said that you are imputing that Mr Berry was being untruthful.

24 November 1993

**Mr De Domenico:** The last thing I want to do is impute anything in relation to Mr Berry, Madam Speaker.

**MADAM SPEAKER:** I would hope so, Mr De Domenico.

**Mr De Domenico:** On that basis, I would withdraw, if Mr Berry feels that way inclined.

**MR BERRY:** How very gracious of you.

**Mr De Domenico:** As always, Mr Berry. On with it now, mate.

**MADAM SPEAKER:** Thank you, Mr De Domenico. Please continue, Mr Berry.

**MR BERRY:** The ACT Government fully supports the provision of such security, as I said, to underpin the promotion of more decentralised bargaining processes. Similarly, the Bill contains provisions which make lawful industrial action, including strikes and lockouts, which takes place during the bargaining period for a proposed single business.

**Mr Humphries:** Like with doctors?

**MR BERRY:** That is fine. The doctors are entitled to strike; but, under this system, they are also expected to perform in accordance with community norms. All other workers are going to be bound by community norms that require access to the conciliation and arbitration process, and commitment to it. The doctors will not do that. That is the difference.

This acknowledgment of the balance of power in labour relations will support the shift of responsibility for bargaining to the enterprise level. Measures to minimise disruption to essential services and to protect the public interest are also included. In further support of the enterprise bargaining process, the Industrial Relations Commission will have the power to make orders that a party bargain in good faith. The ACT Government also fully supports the transfer of the industrial relations applications of sections 45D and 45E of the Trade Practices Act to the Industrial Relations Act. The legislative changes covered by the Bill are extensive and complex. This may necessitate some finetuning adjustments during its passage through the parliament, and subsequently, to ensure that its objectives will be fully met and that there are no unintended consequences. While it notes that there may be some changes of detail, the ACT Government fully supports the broad thrust of the legislation.

As I noted earlier in this statement, consideration of the Commonwealth legislation took up most of the time of the conference. Nevertheless, there was useful discussion on a range of other labour relations issues. In-principle agreement, Mr Deputy Speaker, has been reached between the Federal Government, the ACTU, national employers and the Department of Social Security to develop arrangements by which discounted wage rates can be applied to people with disabilities which prevent them from working at full wage rates. For this purpose a model clause has been developed for incorporation in relevant awards, and officer level discussions will occur shortly to examine the implications for the ACT.

The conference considered recommendations to standardise licensing of plumbers and gasfitters. Considerable progress has been made towards simpler and more uniform licensing arrangements. Ministers have now asked officials to try to resolve outstanding points of difference and to report to the next Labour Ministers conference. An ongoing priority issue is the adjustment of employment conditions to assist workers with family responsibilities. In common with the other jurisdictions, the ACT is looking at the problems of workers on training contracts taking parental leave. The issue is not the access to such leave by apprentices and trainees - that is provided for in our parental leave Act which, you might recall, I think the Liberal Party resisted - but the problems for employers in covering the absence, and for both the employer and the workers in resuming the apprenticeship or traineeship at the end of a period of parental leave.

Similarly, we are looking at our long service leave legislation to ensure that entitlements to leave are not precluded because of broken periods of employment due to family responsibilities. The conference also noted that substantial progress has been made towards national uniformity in occupational health and safety standards and arrangements. Labour Ministers remain resolved to achieve this objective.

To sum up, the Labour Ministers conference has again proved a forum for healthy debate and for moving forward to modernise and harmonise labour relations in Australia. On the main agenda item, the Commonwealth's legislation proposals, there was no consensus, as you would expect. The non-Labor States see enterprise bargaining as a way of reducing wages and conditions for workers. The Labor States, on the other hand, support enterprise bargaining as a way of maximising productivity and efficiency improvement, and putting bargaining power in the hands of employers and workers directly concerned with the profitability and viability of the enterprise.

However, if workers are to have confidence in enterprise bargaining processes, they need the continued support of modern and relevant award structures. They also need to be able to involve the relevant trade unions in the bargaining process. Through its legislation reform, the Commonwealth Government is setting in place an industrial relations framework that will help Australian businesses meet the challenges of the 1990s. In the interests of fairness and equity, it has properly resisted the arguments of those urging total deregulation of the labour market. The New Right group of the Liberal Party is good at that. These arguments usually mask the objective of reducing the wages and conditions, and thereby the living standards, of Australia's workers. The ACT Government will not be diverted from its economic and social justice strategies by the ideology of the so-called rationalists. We support the direction of the Commonwealth Government's industrial relations reforms. I present a copy of this statement and move:

That the Assembly takes note of the paper.

Debate (on motion by **Mr De Domenico**) adjourned.

24 November 1993

**PUBLIC HEALTH**  
**Discussion of Matter of Public Importance**

**MR DEPUTY SPEAKER:** Madam Speaker has received a letter from Mrs Carnell proposing that a matter of public importance be submitted to the Assembly for discussion, namely:

The need for the Follett Government to overcome the crisis in public health in the ACT.

**MRS CARNELL** (Leader of the Opposition) (4.04): Mr Deputy Speaker, before I start this speech I want to put right something that Mr Berry said before about activity reports. The first activity report was put together in June 1991 on the decision of the Resources and Service Development Committee of the Board of Health which I chaired. The decision was made before Mr Berry took over the ministry. I want to right the record there. It is important that that is put right.

On 19 August this year the Minister said on ABC radio, "We are on the way to a better health system". We have heard him say in this place so often that Health is getting better, that everything is rosy in Health.

**Mr Berry:** Under Labor.

**MRS CARNELL:** That everything is rosy in Health under Labor.

**Mr Berry:** Getting better; much better.

**MR DEPUTY SPEAKER:** Order!

**MRS CARNELL:** Mr Deputy Speaker, today our public health system is on the verge of total collapse. Wherever you look in Health, Mr Deputy Speaker, there is a crisis situation. The two professions most critical to health care in our hospitals - specialist doctors and nurses - are locked in disputes with the Government. The morale of Health staff is at an all time low. Waiting lists for elective surgery are growing by 100 people every month. That is three people a day. That is an amazing situation. Hospital occupancy rates have been running at near critical levels. You cannot run a hospital at 100 per cent occupancy. We have the fewest public hospital beds per capita in Australia. That number is fewer than anywhere else, and it is a long way fewer than anywhere else. In fact, the Macklin report suggested that by the end of this century Australia should look at having 3.3 public hospital beds per thousand. That is right down the track, the year 2000, when lots will have happened in terms of medical technology. The ACT, at best, and I stress "at best", currently has 2.7. Actually it is probably closer to 2.5, but I am being very charitable today.

Hospital operating costs, regardless of what Mr Berry said, are far, far higher than the national average. The recent KPMG report suggested 31.44 per cent higher. Mr Berry's own budget of the year before last suggested that they were 30 per cent higher, so I am quite happy to take either figure from either source. Health budgets blow out every year. You would have to believe that budgets in the ACT are a bit like well-worn tyres - they just blow out and continue to blow out. Of course, under Mr Berry, budgets never blow out; we just overspend. And we still do not have a hospice, even though it was approved in 1988. It was approved again in 1989. The story goes on. We could go ahead with the hospice tomorrow if Mr Berry was not bloody-minded about the site.

So where does the buck stop in this crisis? I think the buck stops right here today. It stops with the fireman, Mr Berry. This is the man who the nurses say treats them with contempt. This is the man who describes doctors as greedy, unprofessional, parasitic, disgraceful people, dishonourable. These are all quotes from you, Mr Berry, over the last week or so.

**Mr Berry:** "Parasitic" is wrong. The others are all right.

**Mr De Domenico:** You said "parasitic".

**MRS CARNELL:** You did say that. You said that they are arrogant; a different breed of people; belligerent; privileged; disgraceful. And the story goes on. This is a group of people that Mr Berry is trying to negotiate with. This is a group of people with whom this Minister is trying to come up with a position that will help public health in the ACT. This is how Mr Berry believes negotiations are carried out. It is a very unusual form of negotiation, and certainly a very interesting form of conciliation.

Mr Deputy Speaker, the Minister has given one of the most unprofessional performances I have ever seen from a Minister who believes that he knows something about industrial relations. This is an amazing situation. He has torpedoed public health in the ACT. I think it is really important for us now to have a bit of a look at his performance. It is important now to have a look at what has actually happened in Health. We saw from the activity report that was tabled a little while ago that in the first three months of this financial year Mr Berry's budget blew out again, this time by \$3.073m. It is interesting to look at the same quarter last year. In that quarter it blew out by \$3.162m. So Mr Berry is doing really well and is really achieving a lot in Health! He has improved his blow-out situation in the first quarter of the financial year from \$3.162m to \$3.073m. Personally, I am not too sure that that is a great achievement.

Why has this happened? Mr Berry, a minute ago, said that it is because he is treating more patients. Well, I do not know. I was at the Estimates Committee and there Mr Berry said that he had budgeted for no increase. He said lots and lots of times that he had budgeted for no increase in patients. It was interesting, because his own corporate plan said that there would be a 4 per cent increase; but Mr Berry said that that was wrong and he was right, and that budgeting for no increase, 50,500, was the appropriate way to go. In this activity report we see an actual increase in activity levels in the hospitals of 2.4 per cent.

That is interesting because, again, in the same quarter of last financial year, the year when we had this unrealistically high rate of activity in our hospitals - something that Mr Berry quoted often in the Estimates Committee; that last year was just an unusual year - we had a 5.5 per cent increase. He said that it was a very unusual year; that it would never happen again. I will state the figures again. In the first quarter of this financial year the increase was 2.4 per cent. In the first quarter of last year, what was it? It was 2.3 per cent. It was less. This is a Minister who believes that he has his budget under control. He did not budget for an increase in activity rates, even though they are trending up. They continue to trend up. Maybe that is why he had to have a dispute with the VMOs - so that he could control his activity levels. I hope that that was not the case.

24 November 1993

The other area that is causing Mr Berry somewhat of a concern is private health insurance.

**Mr Berry:** It is not worrying me.

**MRS CARNELL:** Mr Berry, interestingly, says that levels of private health insurance do not worry him. He has said that quite often too. The last activity report shows that the number of bed days occupied by private patients is down to 26.2 per cent. That compares with 32.1 per cent in the same quarter last year. So we have tracked from 32.1 per cent down to 26.2 per cent. That is the reason we have a significant shortfall in revenue. If this tracking continues we will end up with a revenue shortfall. I think it is important for Mr Berry to stop not caring about it and to start supporting Senator Richardson. Senator Richardson understands that this is going to cause a huge problem in public health in this country. He understands that if this continues to happen our public hospital system just cannot cope, and, particularly, the ACT public hospital system just cannot cope. Already we have fewer hospital beds; already we have occupancy rates that are at critical levels. Where are we going to put these patients? They just cannot be accommodated. Inevitably, if fewer people have private health insurance in this community, more will rely on the public system, and the ACT system just cannot cope. As well, of course, there will be a quite dramatic revenue shortfall.

Here we have a situation where Mr Berry has a \$3m-plus blow-out; his activity levels are continuing to go up, even though he did not budget for them; and private health insurance continues to fall, though he does not care about that. What is the Minister doing to overcome this crisis?

**Mr De Domenico:** Nothing.

**MRS CARNELL:** Well, interestingly, he is doing a few things. He is cutting bed numbers. He actually closed ward 10A. That was another nine beds down the tube - a very appropriate approach, taking into account that we already have fewer public hospital beds than anywhere else.

**Mr Berry:** Beds are not the measure, and you know it; and Gary Humphries knows it too.

**MRS CARNELL:** He has increased his occupancy rates. I accept that bed numbers in themselves are not an issue. I fully accept that. Occupancy rates are and waiting lists are. If you have fewer public hospital beds, if your occupancy rates are 90 per cent plus and if your waiting lists increase, what does it tell you, Mr Berry? It tells you that you do not have enough beds. It is very easy, it is very simple; anyone can understand it. Anyway, Mr Berry decides, because he has a budget blow-out, that he is going to cut beds, even though we do not have enough now, which is going to increase occupancy even though it is critically high already. He continues to say that shoving patients out of hospitals quicker, decreasing the average length of stay, will overcome all the problems. Unfortunately, he does not put extra resources into the community to pick up the tab, he does not increase HACC funding, and so, when people are shoved out of hospital quicker, hopefully they just go away. That is not terribly appropriate either, because that is when your readmission levels start to go up.

His other very clever approach was the Christmas closures. Instead of a four-week Christmas closure, we go for a six-week Christmas closure. This is a really good way to bring your budget in on track. It is also a good way to increase, quite substantially, your waiting lists, because, if people cannot go into hospital, obviously they stay on the waiting lists. Of course, it also causes very real problems for people like teachers who expect to be able to have minor surgery and procedures done during holiday periods. But we will not worry about those either. We will just go for a substantially longer Christmas closure period. Here we have a Minister who is solving his problems by cutting bed numbers, increasing occupancy that is already critically high, going for long Christmas closure periods, and going for long waiting lists - waiting lists that have increased, as we have already said, 91 per cent since he took over the ministry.

Interestingly, the number of people who were waiting for longer than 12 months in this last quarter, according to this activity report, was 12 per cent. In the same quarter last year, the September quarter of last financial year, the number waiting for longer than 12 months was 11 per cent. It has gone from 11 per cent to 12 per cent. That is not a decrease, the way I look at it, Mr Berry; but obviously you had different mathematics.

**Mr De Domenico:** And they are his figures.

**MRS CARNELL:** His figures, his activity reports. So, going from 11 per cent to 12 per cent in Mr Berry's terms is supposedly a decrease. It is interesting that today the nurses had a stop-work meeting. I understand that they have decided to have lightning strikes of two hours' duration, beginning tomorrow, so we are going to have a health system with no VMOs and lightning strikes.

**Mr De Domenico:** Are they parasitic as well?

**MRS CARNELL:** Actually, I would like to read what the nurses say about fireman Berry and his tremendous approach to industrial relations. I quote:

Wayne Berry has allowed ACT Health to ignore a recommendation of the Australian Industrial Relations Commission that the directive to change nurses rosters be suspended.

It is no wonder that the VMOs do not trust this approach. They then go on to say:

Wayne Berry's industrial relations style is wreaking havoc on the health system. He must be stopped.

That was said by Colleen Duff, secretary of the ANF. She went on to say:

What skills and qualifications has Wayne Berry to be responsible for something as complex as health?

Mr Deputy Speaker, that is the point of this MPI today. Rosemary Follett has to remove Mr Berry from this portfolio. He cannot cope. She has to put there somebody else who can cope, possibly Mr Connolly. Maybe she has to do it because he just cannot cope. It is obvious that he cannot cope. His budget is still blowing out, he has no VMOs, and his nurses are going on lightning strikes.

24 November 1993

As well as that, he has a dispute in the Industrial Relations Commission with his senior semiprofessional staff, meaning the social workers, the pharmacists and so on.

**Mr Berry:** Wow!

**MRS CARNELL:** Because, Mr Berry, your approach is to let people know that their jobs no longer exist by sending out a memo. If that is good management, I honestly do not understand management at all.

**Mr Berry:** That is right.

**MRS CARNELL:** You think it is appropriate to send out memos?

**Mr Berry:** No, no; you just do not understand it at all. You got that right.

**MRS CARNELL:** Ms Follett has to get rid of this Minister.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (4.19): Well, where do we start from? We will start with her inane comments about waiting lists. As you can see from this graph - - -

**Mrs Carnell:** No.

**Mr De Domenico:** No, we cannot.

**MR BERRY:** I will send you a copy. As you will see from the figures that are provided to you, the number of people who are waiting less than three months is increasing, and the number of people who are waiting more than 12 months is decreasing, from March to September, as you would know. You can also see that there is a great deal of pressure on waiting lists because more people are being put on the waiting lists by their doctors. In relation to the health professions restructure - I will go to that one first - she made some silly remark about people being notified by memo. You might not be aware of this.

**Mrs Carnell:** I am.

**MR BERRY:** Are you? Well, why did you not tell us? Earlier this year Health finalised a joint review of the provision of senior health professional services with the Public Sector Union, in concert with the union. This review arose from an agreement made for the amalgamation of Royal Canberra Hospital and Woden Valley Hospital. The general finding of the review was that there was a top-heavy management structure, as you would expect, as the two services amalgamated. The union rejected the review, but ACT Health must - - -

**Mrs Carnell:** You went along anyway and sent out letters telling people that their jobs were gone.

**MR BERRY:** Listen. ACT Health must ensure that it is getting the best value for the health dollar; so it has put a proposal for a restructure to the union for comment. Under the auspices of the Australian Industrial Relations Commission, both parties are now working through an exchange of information and consultation process with staff prior to the final decision about a new structure. Should a new structure involve a change to any jobs - - -

**Mr De Domenico:** Sack them by fax machine.

**MR BERRY:** There is always a web of deception from these people. They spin the web of deception. Mr Humphries gets his cloak of earnest on and spins webs of deception, and Mrs Carnell has caught the disease. Should a new structure involve a change to any jobs, the staff will be managed according to the relevant award.

In relation to the nurses' industrial action, Mrs Carnell rightly says that the matter has been referred to the Industrial Relations Commission, and that is where the matter will be dealt with.

**Mrs Carnell:** They got a letter yesterday. You are continuing to send out letters to them telling them that their rosters are changed.

**MR BERRY:** What Mrs Carnell does not tell you, of course, is that there is an award which covers the issue of rosters within the hospital system.

**Mrs Carnell:** So negotiation does not matter?

**MR BERRY:** The award was the outcome of an industrial dispute some time ago. That is how the award clause got in there. Both parties own the award clause, not just one. Therefore, people are expected to abide by it. Management advise me that they have given more than the required notice to change rosters. I understand that the issue of rosters is a sensitive one. I said that in the Estimates Committee. At the same time, where there are savings to be pursued, management has an obligation to pursue them in accordance with the requirements of the time. My information is that they are pursuing them in accordance with the relevant award clause. They are doing what is lawful.

**Mrs Carnell:** That was not what the IRC said.

**MR BERRY:** If you want to challenge, if somebody wants to challenge - - -

**Mrs Carnell:** That is what they say.

**MR BERRY:** If somebody wants to challenge the award clause, they can take it to court. As far as we are concerned, they are pursuing it in accordance with the relevant award clause. That matter has been referred back to the Industrial Relations Commission and I should say that that is an appropriate course. The award prescribes, as I am informed, a minimum period of two weeks about roster changes. I think the notice that was given was around a month. ACT Health announced changes in plenty of time and is now working with the staff to finalise the new arrangements. ACT Health will continue working with the assistance of the Industrial Relations Commission, where necessary, to resolve the matter.

**Mrs Carnell:** How have the nurses got it so wrong?

**MR BERRY:** Mr Deputy Speaker, Mrs Carnell puts out media releases which are sometimes wrong - in fact, probably always wrong. I was being a bit kind.

**Mrs Carnell:** What are they going on lightning strikes for?

24 November 1993

**MR BERRY:** You would have to ask them that. In terms of industrial relations, there is, of course, the possibility of conflict and disagreement as things occur. People sometimes disagree about the management of their award clauses, but both sides have to live with that.

Now we get to the doctors. Mrs Carnell has been singing the praises of the doctors. The Liberal lackeys of the militant doctors - - -

**Mrs Carnell:** No, I have not. I said that they were bloody-minded, just like you were.

**Ms Follett:** Mr Deputy Speaker, really, the amount of interjection that Mrs Carnell is being permitted is, I think, quite out of order. It really is detracting from what the Minister has to say. If Mrs Carnell has an interest in the matter she ought to hear the response to her own remarks.

**MR DEPUTY SPEAKER:** I would recommend that both sides take note of that comment.

**MR BERRY:** I care, though, because I am speaking.

**MR DEPUTY SPEAKER:** You were, too, when Mrs Carnell was speaking. I would ask all members to remember that. Please proceed.

**MR BERRY:** The health industry in the Western world is undergoing fundamental reform and Australia is not exempt from this; but still, Mrs Humphries - Mrs Carnell - - -

Members interjected.

**MR BERRY:** Well, you never know; they both use the same web of deception. It is a bit hard to tell them apart.

**Mr Humphries:** Wait until my wife finds out. Oh, my God!

**MR BERRY:** I have to say that it has been a bit tedious going through this over and over again, but I have to go through it. One is sometimes distracted and it is fairly difficult to tell one Liberal apart from the other.

**MR DEPUTY SPEAKER:** You may take a point of personal explanation later, Mr Humphries.

**MR BERRY:** Mrs Carnell again chose to look at all the wrong measures and not the big picture, because she whinged about the number of beds. Strangely enough, with the number of beds that we have, and with our more efficient use of them, we have been able to treat more and more people, and we expect to continue to do that. As Mrs Carnell knows but will not admit - she keeps it quiet - that increased performance by the hospital system usually means that waiting lists grow, for some unknown reason. Usually it is because doctors refer more people to the hospital system. So you end up with more pressure on waiting lists as the throughput of the hospital system grows. None of it makes too much sense and that is why you cannot use it as a measure. It is an inappropriate measure.

**Mr Humphries:** That is not what you said a few months ago.

**MR BERRY:** Mrs Humphries - I have done it again; I have this bee in my bonnet.

**Ms Follett:** They are interchangeable.

**MR BERRY:** Interchangeable.

**Mr Humphries:** Come on, Mr Follett; get on with it.

**MR BERRY:** Thank you. So we end up with this continual misleading of the community on these issues, and that cannot be allowed to continue. Around Australia the public health system employs approximately one-third of all employees who work for the various governments and, as the Chief Minister has stated, reduced Grants Commission funding requires each government agency to leave no stone unturned in order to improve the efficiency and effectiveness of their service delivery. It is the same in ACT Health. When faced with change, organisations face three choices: Do nothing and go under; join together with all the players and work together to achieve changes that will benefit the community and workers; or, thirdly, actively resist change. Unfortunately, some of the key groups in the health industry seem to be choosing to actively resist progressive change rather than working with us to achieve the best possible health system in Australia.

Mrs Carnell is bleating about a crisis in our health system. The only crisis is being caused by the greedy specialists who are refusing to sign contracts. That is where the crisis is being caused. During question time - - -

**Mrs Carnell:** But the nurses are all right.

**MR BERRY:** The nurses have gone to the Industrial Relations Commission. That is where I would like the doctors to go to. During question time I outlined some of the tactics being used by the specialists controlling the AMA hot line. I agree that there is a need to resolve this crisis and I have referred the matter to the Industrial Relations Commission. The other areas that Mrs Carnell has referred to relate to the restructuring of our health system to ensure that it delivers quality and efficient health services.

In relation to VMOs, what is the health crisis that the Opposition refers to? As I have said, it is the result of the VMOs walking out of Canberra's public hospital system; nothing else. They are on strike; there is no question about that. The VMOs are using patients as pawns in what can only be described as a money-grubbing exercise. Canberra's VMOs want absolute security of employment, a better deal than anyone else in the community has, and Mrs Carnell is on the privileged side of things. The contracts they want would give them a job for life. Mrs Carnell thinks they ought to get it. She also thinks they ought to get paid what they like. They want the right to choose when and where they work, without any assessment of the work. Mrs Carnell supports that. How can you support that? They want pay increases that most employees dream about. Mrs Carnell supports that because they are the privileged, and one would expect her to do so.

As the information in the following table shows, VMOs have set up their indexation so that over the last three years they have achieved consistently better outcomes than the average Australian worker. I explained during question time that the changes in 1991 ranged from 3.1 per cent in average weekly earnings for workers to 10 per cent for anaesthetists and 5 per cent for general practitioners.

24 November 1993

All changes were far above the change in average weekly earnings. The change in average weekly earnings in 1992 was 3 per cent, but for VMOs the changes ranged between 4.70 and 3.25 per cent.

**Mrs Carnell:** It is not terribly much, you know.

**MR BERRY:** You add it up over the three years and it is a lot. Ten per cent in 1991 was a fair jump. It was 7.71 per cent for a pathology specialist. In 1993 the change in average weekly earnings was 2.1 per cent, with a top - - -

Debate interrupted.

## ADJOURNMENT

**MR DEPUTY SPEAKER:** Order! It being 4.30 pm, I propose the question:

That the Assembly do now adjourn.

**Ms Follett:** Mr Deputy Speaker, I require the question to be put forthwith without debate.

Question resolved in the negative.

## PUBLIC HEALTH Discussion of Matter of Public Importance

Debate resumed.

**MR BERRY:** That compares with 4.09 per cent for surgeons and obstetrics and gynaecology specialists. The obstetrics and gynaecology specialists are the ones who are now saying that they have changed their mind about their interpretation of an urgent situation for a woman who is pregnant. Earlier they said that a confinement was urgent, but now it is not; they have to be sent away. These are the sorts of people we are dealing with and these wage increases would be the envy of most Australians.

When the ACT Government is doing its best to end all of this, we find the Leader of the Opposition using it to the full. Mrs Carnell has consistently called for health cuts, but what do we find now? The AMA has been whispering in her ear, I think.

**Mrs Carnell:** I am still saying that we should not pay the VMOs more than New South Wales.

**MR BERRY:** The AMA has been whispering in your ear, I think. The Government is not enjoying this sorry situation. It has negotiated for months with the VMOs, but those VMOs must remember that the people of the ACT come first, not themselves. ACT Health cannot condone the manipulation of patients as industrial hostages, and that is what has been happening.

Nurses also have been undergoing fundamental reform. At a time when there is a need to find better and more efficient ways of doing business, the nurses are choosing to cling to old-fashioned practices, and I understand that. I understand that because, sometimes, practices that have been in place for a long time are difficult to change; workplace practice becomes a way of life, but we have to change. We have to change if we are going to get better. Rosters are usually long-term things. As I said in the Estimates Committee process, they are difficult areas. We never expected change in that rosters area to be easy. Mr Humphries had a little taste of this as well. He attempted to go through the process, but it did not come off. It is an area that has to be addressed. Because it is difficult, that does not mean that you ignore it. Those are the important messages. I think there has been some - - -

**Mrs Carnell:** You need to negotiate.

**MR BERRY:** Negotiate? Give them everything they want is what you think negotiation means.

**Mrs Carnell:** No, it is not.

**MR BERRY:** That is what you say in relation to doctors, because you said, "Give them their current pay rates; give them back".

**Mrs Carnell:** I did not say that.

**MR BERRY:** Yes, you did. You said, "Give them back. Extend their contracts".

**Mrs Carnell:** I said, "Extend their contracts while you negotiate".

**MR BERRY:** Yes, that is right. Then, when we get to the end of that and they will not give it up, what do you do? Extend their contracts again? We would never keep you happy, Mrs Carnell. That is fair enough because, like most Liberals, you were never meant to be happy. You were born that way. The issue of nursing hours and rosters was always going to be a sensitive one; nevertheless, it is one that has to be addressed and will be addressed in proper consultation with the nurses. Where there is conflict, it will be dealt with in the Industrial Relations Commission. From time to time the Industrial Relations Commission will direct us to take certain action and we will - - -

**MR DEPUTY SPEAKER:** Order! Mr Berry, your time has expired.

Motion (by **Ms Follett**) proposed:

That Mr Berry be granted an extension of time.

**Mr Humphries:** Mr Deputy Speaker, it is traditional not to have extensions of time during MPIs. We have agreed that we should not have extensions of time.

**Mr Berry:** Ten seconds.

**Mr Humphries:** If he wants to do it.

**MR DEPUTY SPEAKER:** Ten seconds.

*(Extension of time granted)*

**MR BERRY:** My suggestion to the Opposition is that, instead of spending time trivialising and sensationalising health issues, they put their energies into convincing the ACT VMOs that they should sign the contracts that are currently in their hands in order that we can get the hospitals back to normal. They would have less to whinge about.

**MR HUMPHRIES (4.35):** Mr Deputy Speaker, Mr Berry has resorted to the weapon which he uses most frequently, particularly when he is under pressure, as he is at the moment, and that is to lash out with invective at all concerned. The issue in this dispute has been the handling of this process of negotiations between the Government and the VMOs. Mr Berry has excoriated those VMOs; he has attacked them personally. I note that he has named them personally in this house, although he has taken great exception in the past to naming individuals in this house. Apparently doctors do not enjoy the status of other individuals who Mr Berry seems to think should be protected.

**Ms Follett:** When they have already gone public on the media.

**MR HUMPHRIES:** The point remains that you can say things about somebody in the media which you can say in this place, but they are two quite different forums. What Dr Shanahan or somebody else might say about Mr Berry is nothing compared with what Mr Berry can say about Dr Shanahan, and, unfortunately, it turns out that that is the case, particularly when we come to Dr Bates and the comment made about Dr Bates in this place this afternoon. I would hope that the members of the Government are ashamed of the comments that have been made in that respect.

I do not believe that it is possible to use any realistic or viable test of the achievement of our hospital system and say with a straight face that the system is any better than it was two years ago. It does not matter what test you use, whether it be waiting lists, or bed numbers, or the morale of the people within the system, or the level of industrial disputation within the system, or the creation of facilities and resources, or the number of people waiting for non-hospital services; on any of those tests, on any of those bases, you have to say that today our hospital system is in a much less well-functioning state, a much less happy state, than it was even two years ago. I do not think that the Government has even attempted today to present any empirical evidence at all that we have a better situation as a result of two-and-a-half years or so of a Labor administration. Clearly, Madam Speaker, we are rather worse off as a result of that experience.

The measures we might use are varied, but I invite the Government to use the same measures that they have used in the past. Let us look at Mr Berry's comments back in the very early days of his own ministry. He said very clearly that long hospital waiting lists were a clear indicator that the system was not providing the necessary level of service. Waiting lists today are close to double what they were when Mr Berry said that they were a clear indicator that the system was not providing the necessary level of service. Mr Berry pretends now that when he said that he really meant that it was only one minor indicator of a poor level of service in the hospital system. He did not say that. He did not pretend today that he was misrepresented or misquoted in the *Canberra Times*.

The fact is that he was not. The fact is that Mr Berry said absolutely unequivocally that his tenure as Minister for Health should be measured by his achievement in areas like hospital waiting lists, the ACT Ambulance Service and scrutinisation of the hospital redevelopment budget. That is what he said. By his own standard Mr Berry has to concede that his own hospital system has declined and is in serious trouble under his stewardship.

Madam Speaker, I was intrigued by the comment about the \$3m budget blow-out. Mr Berry does not use that term "blow-out" very much any more, but it was a term he bandied around a great deal before the 1991 change of government. Both Mr Berry and the Treasurer, Ms Follett, were quick to point out today that you cannot use part-year figures in assessing whether or not a budget is in trouble; you have to wait for the final end-of-year outcome. Ms Follett nods. My mind wanders back to 1991. It wanders back to the occasion when Mr Berry loudly screamed up hill and down dale that the hospital budget had blown out - he does not use those words these days - by \$17m. Do you recall that assertion, Mr Berry?

**Mr Berry:** No. I said that you did not know what was going on. I remember that assertion. That was true.

**MR HUMPHRIES:** I am sure that Ms Follett recalls it - \$17m. It was the figure that was used extensively in June 1991 when the Government fell - that the ACT Alliance Government had allowed the budget to blow out by \$17m. Was that an end-of-year figure?

**Ms Follett:** It was, by the end of the year. Yes, it was.

**MR HUMPHRIES:** No, it was not the end-of-year figure. The end-of-year figure was \$6m.

**Ms Follett:** No, it was not; \$6m unapproved, as I recall.

**MR HUMPHRIES:** The records show that. We have heard that unapproved expenditure is only what you have to look at. Is that not the case, Madam Treasurer. What is the test here? Can we have some consistency? What is the test? Is unapproved expenditure all right or is it not? Is approved expenditure part of a blow-out or is it not? You people are making the rules up as you go along. You do not want to admit to the fact that you have been not one iota more successful in controlling budget expenditure than any previous government in this Territory. When you talked about a \$17m blow-out in 1990-91 you were talking about a part-year figure. Irrespective of what it turned out to be at the end of the year, it was a part-year figure when it was first used, was it not? That, Madam Speaker, is another test on which I would invite members of this community to condemn this Government. It is your own test; it is the test that you fail.

I am distressed to hear that Mr Berry thinks that the system has performed well up until now - that is, until the doctors strike has come along. Those are fairly innocuous words, but I read into those words something very sinister. What I hear in Mr Berry's words is that we have had some problems but the doctors dispute is going to really throw our health system and our health budget right out of kilter. Boy, oh boy, when we get to the end of the year, when we have

24 November 1993

an \$8m or \$9m budget blow-out, yes, it will all be the doctors' fault. That is what we are going to hear, Madam Speaker; mark my words. The evidence is here right now, only three days into the doctors strike, as Mr Berry puts it. The system is in serious trouble and any attempt to blame the doctors for a budget blow-out is simply reconstructing the facts in the style of Stalin to make what you want to be the case to actually be the case.

Madam Speaker, as I said, I think it was extremely unfortunate that Dr Bates was attacked in this place today and was accused of being personally responsible for having generated some of the problems Mr Berry referred to. I think Mr Berry should be ashamed of having dragged an individual in in that fashion, irrespective of what the net effect of some doctors' conduct might have been. There is not a shred of evidence to suggest that Dr Grahame Bates is personally responsible for any of that. Mr Berry well knows that Dr Bates has continued to work in the hospital system despite these recent problems, and that he is personally particularly concerned about the impact of these changes on patients. To suggest that he is personally responsible for some of these things is quite outrageous.

Mr Berry has pointed to only one indicator of success within his hospital system - that we are treating more people. He keeps parroting that. Just how good a test is it? The fact of life is, as the Chief Minister has told us in her budget papers, that we are experiencing a population increase in the ACT each year of 1.8 per cent. If we are experiencing 1.8 per cent more people in the ACT each year, we would have to be in a really serious situation if we were not treating more people, would we not? We would have to be in an absolute crisis if we were not able to treat more people in those circumstances. The population base is growing, revenue from rates and other government taxes and charges - Capital Duplicators to one side - is growing, and it follows, Madam Speaker, that we should be increasing the throughput of the hospital system; but if you look at any other test - occupancy rates, throughput based on those occupancy rates, budget outcomes, waiting lists, bed numbers - on any of those tests, tests which Mr Berry thought were important a few months ago, this system and this Minister have failed badly.

**MS FOLLETT** (Chief Minister and Treasurer) (4.45): Madam Speaker, nobody would deny that the public health system in the ACT has been going through a difficult time, a difficulty caused, first of all, by the massive reconstruction program which we have engaged in and which is now over halfway completed. There also has been a need to restructure to an extent, and, as Mr Berry has pointed out, that also has been a difficult issue. I think it is a tribute to everybody working in the public health system that, up to the point of the VMOs strike, it did manage particularly well.

Mr Berry tabled in the Assembly today the activity report for the most recent quarter. Members opposite have not bothered to look at it, of course; but it would tell them that, for example, the length of stay has decreased. It would tell them also that the Woden Valley Hospital has been awarded three-year accreditation by the Australian Council on Healthcare Standards. It would tell them that the elective surgery waiting list has shown a decrease in the percentage of people waiting for more than 12 months. It would show them also that, where there has been an increase in the waiting list, the majority of the increase is the result of new registrations - that is, people waiting less than a month.

Madam Speaker, it would show also that the Ambulance Service continues to respond to a majority of priority one calls in less than 10 minutes. That is the national average response time that is required, and we are there. It would show also that the number of commendations received by Woden Valley and Calvary public hospitals was greater than the number of complaints received by over four to one. Of course, members opposite do not want to know about any of that good news. Obviously, some people in this system have been working extraordinarily hard and extraordinarily effectively in a difficult time.

Madam Speaker, if we are talking about a crisis today, it is one that has been forced on us by the actions of the visiting medical officers. It is not a crisis of the Government's making. Indeed, Madam Speaker, the circumstances that we face today are circumstances that we have worked very hard to avoid, and we will continue to work hard on this issue. It would have been very easy for the Government to avoid or end this dispute simply by giving in to the VMOs' demands, but the public of the Territory, I believe, must realise just what those demands are. They are not demands for fair rates of pay. We have agreed already to what are, by national standards, very generous rates. What the VMOs are demanding is full automatic indexation of those generous rates of pay and tenure; and not only tenure but tenure on their terms. Although they are contractors, they want security of tenure that even our own employees, our own permanent public servants, do not have. They want those terms whether ACT Health needs them on those terms or whether it does not. It is not a reasonable position and, clearly, it would be totally irresponsible to the ACT taxpayer to agree to such terms.

All of us in the ACT have to face the fact that there have been dramatic changes in our financial relationship with the Commonwealth, and the Grants Commission's five-yearly review of relativities resulted in a very significant reassessment of the levels of Commonwealth funds provided to the Territory. Madam Speaker, we have dealt elsewhere with the reduction in that general revenue grant. Suffice it to say that there is now a much lower level of funding in our general revenue grant than we anticipated at this time last year, and our health budget has been framed against this background. If the Government were to accede to the VMOs' demand we would have to rob Peter in order to pay an already very well-paid Paul. We cannot print money. Other important government services would lose out, which would impact on the ACT community. If we were simply to spend, spend, spend, as the Opposition seems to demand - "all it takes is money", we have heard Mrs Carnell say - then the Territory would go into a spiral of debt which, again, would penalise the whole community.

Let us look at what we are achieving with our limited health budget and put the VMOs' demands into context. Over recent years we have increased our public health services dramatically, with hospital admissions increasing by 5.3 per cent in 1992-93 alone. People receiving day only care increased by 9.3 per cent. This year the Government is aiming to maintain those activity levels. We are funding expansion and growth in community and public health services, and the hospital redevelopment project has passed the halfway mark, as I said. The hospital has been accredited and it will soon commence as a teaching hospital. This is a further new and important step towards a health system of excellence. At the same time, with the progressive completion of the redevelopment project, we have the potential for further efficiency returns.

24 November 1993

This will be very helpful as we look at bringing services more into line with national standards and benchmarks. After all, Madam Speaker, the ACT receives Commonwealth funding based on national standards. We are paid for the considerable number of NSW patients in our hospitals at national standard rates. We cannot afford excesses.

It is not just our budgetary circumstances that require us to apply to the VMOs the same kind of disciplines that are being followed throughout the ACT. The Auditor-General, Madam Speaker, also has recommended a thorough overhaul of the arrangements under which VMOs are engaged and the way in which they operate within the public health system. In other words, sound management practice and careful use of public funds demand that there be significant reforms in the current arrangements. Madam Speaker, is the Opposition asking that we ignore the Auditor-General as well as the constraints created by the Territory's overall budgetary circumstances?

In talking about the current dispute we must not lose sight of the quite proper steps that have been taken by the Government to avoid this dispute and to settle it once it became clear that the VMOs were withdrawing their services. Negotiations with the VMOs commenced many months ago, in fact in June, and I understand that four meetings with the full VMO negotiating team took place, together with a further six working party meetings. In addition, the Minister has met with representatives of the VMOs. In all this time I understand that the VMOs have shown little flexibility and have made only one concession relating to on-call rates. For its part, the Government has made significant concessions, and, in particular, we have modified our offer on rates of pay. Against this history of negotiations conducted with great care and in good faith, the criticism that the Government has precipitated the current dispute is absolutely bankrupt.

Madam Speaker, in concluding I would like to say that in the face of severe overall funding restraints the Government has taken the only course available to us. We have asked the VMOs to share some of the discipline that is being imposed throughout the ACT public sector. We have not asked the VMOs to do more than their share. Indeed, and I stress this, if we have erred it is on the side of generosity. Madam Speaker, I would like to quote very briefly, and this is a rare thing for me, from the Canberra Business Council's submission for the budget this year in regard to the VMOs. They said:

The Committee understands that contracts with VMOs are to be re-negotiated in September 1993. A realistic approach should be determined by the ACT Government ...

It goes on and on and towards the end they say:

Just as the ACT followed the Macken judgment in 1986, it should now follow the recent New South Wales judgment for a 20 per cent reduction.

That is the Business Council's view on what the Government should have offered the VMOs. Of course, that is not what we offered them. As I say, if we erred, it was on the side of generosity. At the same time, Madam Speaker, we have acted honourably as the negotiations have proceeded. Any crisis caused by the withdrawal of VMO services is not of the Government's making.

Clearly, the Assembly would not be debating this matter if the VMOs were not important to the running of the public health system. The fact is that they are important and they have a very significant role to play. All the Government is asking is that the VMOs accept some of the responsibility that must accompany their important role in the system and look beyond their immediate and personal interests to those of the community as a whole. A first and important step on their part would be to join with the Government and the wishes of this Assembly, as expressed this morning without a dissenting view, and agree to have the matter arbitrated.

**MR DE DOMENICO (4.55):** Madam Speaker, let us face the facts. The facts are, unfortunately, that the doctors are in dispute with this Minister and this Government; the nurses are in dispute with this Minister and this Government; and the senior professional staff, like pharmacists, physios and dietitians are in dispute with this Government. I suggest, therefore, Madam Speaker, that all these people cannot be wrong.

**Mr Berry:** They are all at work.

**MR DE DOMENICO:** Mr Berry interjects, "They are all at work". That is not true, Mr Berry, because, as we have heard, the nurses, as from - - -

**Mr Berry:** Except for the doctors; I am sorry.

**MR DE DOMENICO:** No, no; the nurses as from tomorrow, from time to time, also will not be at work. Madam Speaker, Mr Berry talked about the wonderful meeting he had with Industrial Relations Ministers in Canberra recently and how everybody has rights to do all sorts of things. I think doctors, nurses and everybody else have rights as well.

Let us have a look at the situation in ACT Health. I am casting no aspersions whatsoever on the very dedicated staff who are trying their best in very hard circumstances. The fault lies, quite rightly, fairly and squarely with the Minister; nobody else but the Minister. There is no doubt, as Mrs Carnell and Mr Humphries have said, that morale in ACT Health, right at this minute, and morale in the ACT if you happen to be sick, are at zero level. There is no doubt whatsoever about that. Why is morale at zero level? Let us face the facts. The waiting list is increasing by 100 per month. That is a fact. Hospital occupancy rates are between 90 and 100 per cent - higher than in any other public hospital system in the country. That is a fact.

We have a lower number of public hospital beds than anywhere else in the country. That is a fact. That was confirmed by the Macklin report as well. Also, as Mrs Carnell said, there is an expectation of 3.3 beds per thousand by the year 2000. The very best that we are looking at is 2.7 per thousand, which is below the national average, once again. According to KPMG, or Mr Berry's figures - let us take Mr Berry's figures that are a little bit lower - our hospital operating costs in the ACT are 30 per cent higher than anywhere else in the country. Let us have a look at some more of Mr Berry's figures, because I do not want to misinterpret anything. Mr Berry's own figures, released in the report today, show that he is \$3.073m over budget in the first quarter of this year. We compare it, quite rightly, with the same period as last year when it was \$3.162m.

24 November 1993

Let us look at that in the light of what Mr Berry has said at the Estimates Committee and also in this Assembly. Notwithstanding that our population is getting bigger, that we are paying more rates and taxes, that we are growing by close to 2 per cent, and that the ACT is the second fastest growing area in Australia - let us blow away all those sorts of reasons - Mr Berry still expects to treat only 50,500 patients this year. What a nonsense! In the first quarter already there is a 2.4 per cent increase. What Mr Berry says in this place is absolute and utter nonsense. It does not make sense. Any realistic person who knows anything about that would agree. What Mr Berry says in this place makes no sense whatsoever.

Let us go on a bit more. "Private health insurance does not worry me", says Mr Berry. Ms Follett, quite rightly, said, "We also have other obligations, not just to the people of the ACT, but in accordance with the Medicare agreement". I think the amount that we expect to get this year under the Medicare agreement is roughly \$32m. Part of that agreement says that we look after certain patients from outside the ACT. Right at this minute not only people living in the ACT cannot line up to get into hospital or cannot be treated because of the VMOs dispute, but also other people outside the ACT. It is also affecting the amount of money that we may or may not get under the Medicare agreement. The bottom line is that we get deeper and deeper into trouble.

Let us have a look at some of the things that have been said. Mr Berry, as I said, comes into this place and says, "I am the world's expert on industrial relations". We heard Ms Follett say yesterday that she was the country's best Treasurer, or second-best Treasurer. She was alluding to her prowess as a Treasurer. Mr Berry comes in here and says, "Listen, I know everything about industrial relations". This is Mr Berry's version of industrial relations. I am quoting what Mr Berry said on the Matthew Abraham show:

Well, I guess it boils down to how long the VMOs are prepared to continue with their dishonourable behaviour.

So, once again, doctors are all dishonourable. He has not said that some of the VMOs are dishonourable; every VMO is dishonourable, according to Mr Berry. At question time and at other times today he cast certain aspersions against Dr Bates. He called Dr Bates all sorts of names. Every VMO, according to Mr Berry, is dishonourable. He has also used other words. He has called them leeches, and has said that they are putting their pocket before the interests of the people of the ACT. He has used those sorts of words and still comes in here and says, "This is the way I handle industrial relations in the ACT". What humbug, Madam Speaker!

What else has Mr Berry done? He has promised all sorts of things. He has promised a hospice. We are still waiting. He has dug his toes in. He talks about VMOs digging their toes in. He wants to put a hospice on the Acton Peninsula. Everybody in the world has told him that he cannot do it; but, no, Mr Berry continues to say, "No, that is where it is going to go. That is where it is going to be. If you do not like that, well, who cares, because I, Wayne Berry, am the Minister for Health and that is where I am going to put the hospice".

Let us go through it again. Doctors are not particularly happy with Mr Berry. The nurses are not particularly happy with Mr Berry. Morale in the ACT health system is at an all-time low. As from tomorrow nurses are going out from time to time, and are not even telling Mr Berry when they are going out. We have talked a lot about the Industrial Relations Commission, an arbitrator and all this sort of thing as well. The nurses are going out and are having stop-work meetings. The Industrial Relations Commission has said, "Listen, before we settle this at the arbitrator level, do not send out memos about shifts and all sorts of things, Mr Berry". But what does this Government do? It says, "Let us ignore the suggestions of the Industrial Relations Commission". How can Mr Berry expect the doctors to believe him when he says that he is prepared to take the umpire's decision, even if they concede - I do not believe that it is correct anyway - that the Industrial Relations Commission is the appropriate place to negotiate? The bottom line, when one thinks of that, is that ever since this Minister has been in charge of this health system we have gone downhill. By any statistical measure, by the Minister's own report, we have gone downhill.

Once again, the facts are harsh. In the first quarter we are down \$3.073m. Mr Berry comes in here and says, "That is because we are treating more people". Let us have a look at that. How can you be treating more people if in the same breath you are saying, "We are not going to be treating any more people than we did last year"? You cannot have it both ways. You cannot boast and say, "Listen, the system is going magnificently because we are treating more people", and on the other hand say, "We have budgeted to treat only the same number of people as we did last year". Which is it going to be? Do you not take into account the fact that the population is growing? No, of course not. Once again we have talked about all sorts of things. I think the best word that I have heard used this afternoon to describe what has happened to the hospital system is that it has been torpedoed by one person, and one person only. That person is sitting opposite here - the Minister for Health, Mr Berry, who is also the Minister for Industrial Relations.

**Ms Follett:** Nonsense!

**MR DE DOMENICO:** The Chief Minister says, "Nonsense!". She knows that he is the greatest embarrassment that this Government has, or will ever have. He is a walking political pyromaniac. Everything he does turns into fire. He tries to stop it by pouring petrol over it.

**Mr Lamont:** You are not going to get personal about it, are you?

**MR DE DOMENICO:** The very day, Mr Lamont, that you cease being personal I will do the same. You, of all people, dare not talk about that sort of thing.

**Mr Lamont:** Do not get down in the gutter again, Mr De Domenico. You have a lesser distance to go than I do. I understand that.

**MR DE DOMENICO:** We will not get personal, will we, Mr Lamont? Okay.

**MADAM SPEAKER:** Order!

**MR DE DOMENICO:** Thank you. Madam Speaker, beyond any shadow of a doubt, when we look at any measure of managerial capability, this Minister opposite cannot, and should not, be left in charge of our health system.

24 November 1993

The doctors are saying so, the nurses are saying so, the community of Canberra is saying so, and we will continue to say so. This Chief Minister, if she has any ounce of leadership in her hands, should make this Minister resign. If this Minister does not resign, she should sack him immediately and get the thing running again topnotch, so that lives cannot be threatened by the way he runs this health system and the way he has approached industrial relations.

**MADAM SPEAKER:** The time for the discussion has expired.

**SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION -  
STANDING COMMITTEE  
Report and Statement**

**MRS GRASSBY:** Madam Speaker, I present report No. 21 of 1993 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. I ask for leave to make a brief statement.

Leave granted.

**MRS GRASSBY:** Report No. 21 of 1993 contains the committee's comments on two Bills. I commend the report to the Assembly.

**POSTPONEMENT OF ORDERS OF THE DAY**

**MR BERRY** (Deputy Chief Minister) (5.06): Pursuant to standing order 150, I move:

That orders of the day, Nos 1 and 2, executive business, relating to the Limitation (Amendment) Bill 1993 and the Taxation (Administration) (Amendment) Bill (No. 2) 1993, be postponed until the next day of sitting.

Question resolved in the affirmative.

**TOBACCO PRODUCTS (HEALTH WARNINGS) (AMENDMENT) BILL 1993**

Debate resumed from 17 June 1993, on motion by **Mr Berry**:

That this Bill be agreed to in principle.

**MRS CARNELL** (Leader of the Opposition) (5.07): We have before us a number of amendments to this Bill which quite substantially change the things I would have said about it prior to the amendments being circulated. As I understand it, the Bill is the result of a 1992 Health Ministers conference that came up with an agreement to look at greatly increasing health warnings on tobacco products and at the amount of the package that these health warnings should cover - a very laudable and appropriate approach.

Unfortunately, that agreement did not last terribly long, and in June or July this year that decision was revisited by the Health Ministers conference and a new agreement was brought down. That new agreement came down after this Bill was tabled in the Assembly. As it currently stands, the Bill in front of us does not mirror at all the agreement of the Health Ministers. The Liberal Party support an approach that will give consumers appropriate warnings about tobacco products so that, hopefully, they can make well-educated decisions on whether they should consume the product at all.

It is also very important to ensure that whatever legislation we have in the ACT in this area is consistent with that in New South Wales and in other parts of Australia. Mutual recognition will mean that product labelling that is legal in one State will be very hard to exclude from another State. Therefore, it is important that all States have similar legislation. I am not at all impressed with the stance of my Victorian colleagues. They have chosen to take a different approach, and I think it is very unfortunate that that has been the case. I understand that, because of that, the Federal Government is going to move under the Trade Practices Act to ensure that there is a Federal approach to this important issue, and I applaud that. Again, that does make this Bill somewhat redundant if the Federal Government is going to move, but I understand that there is some need for a few States to move along this line to set some standards, and we support that approach.

It is unfortunate that quite substantial changes to this Bill were presented to us only a very short time ago. It is absolutely essential that these amendments we pass today be in line with national standards. It is very difficult for this side of the house to ensure that that is the case, having got the amendments only an hour ago. I do not think that is an appropriate approach. As the Minister knows, I wrote to him last week because I was concerned that this piece of legislation did not mirror the Health Ministers conference decision on this matter. I got a reply from the Minister yesterday. Again, it makes the timeframes very difficult for this side of the house.

Because I was concerned about this issue, I have in front of me what the New South Wales Government is going to do, but that is as much by good luck as by good management, I have to admit. I am therefore in a position to check whether these amendments are in line with the national standard. They are. So I have been willing to go ahead and handle this piece of legislation today.

**Mr Berry:** What did you muck about for, then? What could you say? "I have checked it".

**MRS CARNELL:** It is only because I have just got it here in front of me. I have just finished checking it, at this moment. As I said, we are happy to handle this piece of legislation today because it is important. It will greatly improve the health of Australians, I hope, and it is important that some States take the lead in this area. It is also one of the few issues on which the Health Minister and I agree totally. It is important that people who smoke cigarettes in Australia realise the dangers to their health. I cannot say that we support this Bill, because the amendments have not been introduced, but we certainly support this approach.

24 November 1993

**MR MOORE** (5.12): In speaking to the in-principle stage of this Bill, I think it is appropriate to give credit where it is due. There is no doubt that Wayne Berry has been an Australian leader in this area of reform as far as tobacco products go, and he deserves congratulations. It is interesting that, on each occasion he has brought to this house reforms in this area, he has had overwhelming and, as my memory serves me, unanimous support for those reforms. Nevertheless, he is the one that has taken the running. I am delighted to hear the Leader of the Opposition give the Liberals' support. It is appropriate that we give the positives where they are due. It is one of the reasons why I am prepared today, even with the short notice, to accept these amendments and to support the harm minimisation approach that has been taken by Mr Berry.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (5.13), in reply: Madam Speaker, I thank members for their support on this matter. If I could give a brief summary of its history, it all began when options on cigarette packaging were examined two years ago. One option was to have generic packaging for cigarettes, which meant that they would have been in buff packets with black writing and that was all they could have. It probably would not surprise members to hear that I supported that approach. Of course, the tobacco companies strenuously opposed it. I wonder why. Eventually an agreement was reached between all States on substantially stronger messages than are the case in this amendment.

With the changes in politics that occurred around the country following that decision, there was also a change in attitude and a lot of backsliding on that question, which was a great shame. I think what had been decided upon, though a compromise from my point of view, was far and away the strongest message in the world on cigarette packets. We then had to go through the process of dealing with changes, and there had to be a campaign to put pressure on other governments around the country so that we could come up with something that was reasonable. I was very proud to be associated with that. I am not quite sure that I would rate these days, but I was a hero for a day with the AMA.

This approach has been assisted, no doubt, by the strong support for these moves that has been shown by all members of this Assembly, and more credit to them. With a bit of luck, the ACT might be remembered in some way for making its contribution on this score. Indeed, the labelling you see in the schedules describes the dreadful things that can happen to you as a result of the consumption of tobacco. I know that there are still people out there campaigning on behalf of tobacco companies. I have been particularly critical of the Australian Hotels Association's campaigning, which in essence supports the consumption of tobacco products. We really have to reform attitudes as we move on these issues. Once again, Madam Speaker, I thank members for their support on this Bill and wish it a quick passage.

Question resolved in the affirmative.

Bill agreed to in principle.

### Detail Stage

Bill, by leave, taken as a whole

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (5.17),  
by leave: I move:

Subclauses 2(2) and (3), page 1, lines 9 to 13, omit the subclauses, substitute the following  
subclause:

"(2) Subject to subsection (3), the remaining provisions commence  
on 1 April 1994."

Clause 6, page 4 -

Line 6, proposed new paragraph 4(3)(b), omit "more than 44%", substitute "less than 25% and not  
greater than 30%".

Line 24, proposed new subsection 5(5), after "shall be" insert "not less than 0.3 millimetres and not  
greater than".

Line 34, after proposed new section 6 insert the following section:

#### **Completing the prescribed information**

"6A. (1) For the purpose of making the necessary  
insertions to complete the prescribed information on a package of cigarettes, the  
amount of tar, nicotine and carbon monoxide contained in the smoke from cigarettes  
in the package shall be determined in accordance with -

(a) the following ISO standards:

ISO 8243:1991; ISO 3402:1991; ISO 3308:1991; ISO 4387:1991;  
ISO 10315:1991; ISO 10362:1991; ISO 8454:1987; or

(b) if the manufacturer notifies the Minister in writing of the standards  
proposed to be used - any other ISO standards for determining the tar,  
nicotine and carbon monoxide content of cigarette smoke.

"(2) The Minister shall publish the reference number  
of any standard notified under paragraph (1)(b) in the *Gazette*.

"(3) In this section -

'ISO standard' means a standard of the International Organization for Standardisation;

'reference number', in relation to an ISO standard, means the letters 'ISO' followed by a number.

Clause 6, pages 6 to 13, proposed new Schedules 1, 2 and 3, omit the proposed new Schedules,  
substitute the following Schedules:

*24 November 1993*

Schedule available in printed Hansard.

Schedule available in printed Hansard.

24 November 1993

I present the supplementary explanatory memorandum.

Amendments agreed to.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

## ADJOURNMENT

Motion (by **Mr Berry**) proposed:

That the Assembly do now adjourn.

### National Road Transport Commission Report

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (5.18): Members would have noticed the report tabled this afternoon by Mr Berry from the National Road Transport Commission, a body on which I am represented on the Ministerial Council. Somebody has gone to an enormous amount of bother in the map design to make Canberra disappear. It appears that the anti-Canberra paranoia, which sometimes we think we are paranoid in suspecting in other parts of Australia, has gone to extremes. I would like to read to members of the Assembly a letter I have dispatched to the chair of the National Road Transport Commission of today's date:

Dear Mr Hurlston

I am pleased to advise you that the National Road Transport Commission Annual Report 1992-1993 was tabled in the ACT Legislative Assembly on 24 November 1993.

I am less pleased to advise that it has been noted that someone went to a lot of trouble in the design of the Report to make Canberra disappear.

We who live in Canberra are rather proud of our city, and wonder why the National Capital has been reduced to a red dot between the Barton/Federal Highway junction and Queanbeyan.

I know that it is popular to describe the Federal Government and all its incarnations as "Canberra". Is it necessary to doctor a map to make this city disappear?

I will advise members of the response.

Question resolved in the affirmative

**Assembly adjourned at 5.18 pm**